

SCHEDULE 1

Regulation 4

TRANSITIONAL AND SAVING PROVISIONS

Interpretation

1. In this Schedule—

“the 1976 Regulations” means the Conduct of Employment Agencies and Employment Businesses Regulations 1976⁽¹⁾;

“the date on which these Regulations come into force” means the date on which the Regulations apart from regulations 26(7) and 32 come into force;

“existing contract” means a contract entered into between—

(a) an agency or an employment business; and

(b) a work-seeker or a hirer;

before the date on which these Regulations come into force;

“ongoing supply” means the continuous supply by an employment business of a particular work-seeker to a particular hirer to fill a particular position, which continuous supply commenced before the date on which these Regulations come into force and continues after that date;

“transfer fee” has the meaning given by regulation 10(2); and

“the transitional period” means the period of 3 months beginning on the day these Regulations come into force.

Application to existing contracts

2.—(1) Subject to the following provisions of this paragraph, these Regulations apply in respect of existing contracts with effect from the date these Regulations come into force.

(2) Regulations 5 (restriction on requiring work-seekers to use additional services), 6(1) (restriction on detrimental action), 10 (restriction on charges to hirers), 12 (prohibitions on withholding payment to work-seekers), 26 (charging fees to work-seekers) and 28(2) (prohibition on disclosure of information to current employer) shall not apply in respect of any existing contract during the transitional period.

(3) Sub-paragraph (4) applies after the end of the transitional period to existing contracts which on the date these Regulations come into force include any term, the inclusion of which is prohibited by regulations 6(1) and 12.

(4) The references in regulations 6(1) and 12 to including a term in a contract shall be construed as references to enforcing or seeking to enforce that term.

(5) After the day on which the transitional period ends, regulation 10 shall not apply to any right which has accrued on or before that day under any term, in an existing contract, which is described in regulation 10.

(6) Sub-paragraphs (7) and (8) apply after the end of the transitional period to any existing contract between an employment business and a hirer which does not provide for a hire period as referred to in regulation 10(1).

(7) For the purposes of regulation 10(1), the contract between the employment business and the hirer shall be regarded as making such provision as is specified in that regulation where—

(1) S.I.1976/715.

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

- (a) the employment business has given notice to the hirer stating that, instead of a transfer fee, the hirer may elect for a hire period of such length as is specified in the notice during which the work-seeker will be supplied to the hirer on terms no less favourable to the hirer than those which applied immediately before the employment business received the hirer's election or, where there has been no supply, on the terms set out in the notice; and
- (b) the employment business has given such notice to the hirer (and has not withdrawn the same) at any time from the day on which these Regulations come into force but before the work-seeker concerned—
 - (i) begins employment with the hirer; or
 - (ii) begins working for the hirer pursuant to being supplied by another employment business.

(8) For the purposes of regulation 10(3), the references to “the contract” and “the hire period referred to in paragraph (1)” shall be read as references to the notice referred to in sub-paragraph (7) of this paragraph and the hire period specified in that notice, respectively.

Savings in respect of existing contracts

3.—(1) During the transitional period, regulations 2(2) (non-disclosure of information), 4(5) (provision of services to a worker conditional upon using other services provided by the agent), 9(9) (prohibition on detrimental treatment for termination of contract by worker) and 9(10) (prohibition on making remuneration conditional on receipt of payment from hirer) of the 1976 Regulations shall remain in force in respect of any existing contract.

(2) During the transitional period, the Employment Agencies Act 1973 (Charging Fees to Workers) Regulations 1976(2) shall remain in force in respect of any existing contract.

Ongoing supplies and first occasion of supply

4.—(1) In regulations 7 (restriction on providing work-seekers in industrial disputes), 18 (information to be obtained from a hirer), 19 (confirmation to be obtained about a work-seeker), 20 (steps to be taken for the protection of the work-seeker and the hirer) and 22 (additional requirements in respect of professional qualifications or vulnerable persons), references to “supply” shall not include an ongoing supply.

(2) Regulations 9(6)(b) (notification of changes in terms agreed with workers) and 9(11) (prohibition on supplying workers to replace those in industrial dispute) of the 1976 Regulations shall remain in force after the date on which these Regulations come into force in respect of any ongoing supply.

(3) Where the terms of an existing contract with a hirer are varied, the agency or employment business shall comply with the requirements of regulation 17 (requirement to obtain agreement to terms with hirers) before the first occasion on which it provides services to that hirer after the variation has been agreed.

Restriction on paying work-seekers' remuneration and client accounts

5.—(1) Regulation 8 (restriction on paying work-seekers' remuneration) shall not apply to agencies during the transitional period.

(2) In respect of any agency which, immediately before the day on which these Regulations come into force, was not required to maintain a client account by virtue of it having received no written request from a worker under regulation 7(2) of the 1976 Regulations—

(2) S.I. [1976/714](#).

(i) regulation 25 shall not apply; and
(ii) regulation 7 of, and Schedule 2 to, the 1976 Regulations shall remain in force, during the transitional period.

(3) Regulation 25 and Schedule 2 apply in respect of all relevant money held by an agency (other than an agency described in sub-paragraph (2)) with effect from the day these Regulations come into force, but where—

- (a) regulation 25 or Schedule 2 imposes a requirement on an agency to take action in respect of any money held by it within a certain period of time; and
- (b) the event giving rise to the requirement to take that action occurred before the day these Regulations come into force;

that event shall be treated as having occurred on the day these Regulations come into force.

(4) Regulation 25 and Schedule 2 apply in respect of all relevant money held by an agency described in sub-paragraph (2) with effect from the day after the day on which the transitional period ends, but where—

- (a) regulation 25 or Schedule 2 imposes a requirement on an agency described in sub-paragraph (2) to take action in respect of any money held by it within a certain period of time; and
- (b) the event giving rise to the requirement to take that action occurred before the end of the transitional period;

that event shall be treated as having occurred on the first day after the end of the transitional period.

(5) In sub-paragraphs (3) and (4) “relevant money” means money held by an agency immediately before the day on which these Regulations come into force or immediately before the day on which the transitional period ends (as appropriate) which, if the money had been received on or after that day, would be money in respect of which regulation 25 or Schedule 2 imposes a requirement to take action.

Miscellaneous Savings

6.—(1) Regulations 8 and 12 of the 1976 Regulations (records) shall remain in force in respect of any applications received before the date on which these Regulations come into force.

(2) Regulations 3(4), 6(1), 6(3), 6(5)(b), 7(3), 9(6)(c), 10(4), 11(1) and 11(5)(b) of the 1976 Regulations shall remain in force in respect of any copies of advertisements, written statements and documents required to be kept by an agency or employment business under those regulations.

(3) Where an agency has arranged employment for a young person before the date on which these Regulations come into force, any duty of the agency under regulation 5(4) of the 1976 Regulations (duty to loan return fare) shall be unaffected by the revocation of those Regulations.

(4) Where an employment business has supplied a worker to work at a place outside the United Kingdom before the date on which these Regulations come into force, any duty of the employment business under regulation 11(3) of the 1976 Regulations (duty to pay worker’s return fare where hirer does not comply with his undertaking) shall be unaffected by the revocation of those Regulations.