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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 395**

**Conduct of Employment Agencies and Employment  
Businesses Regulations (Northern Ireland) 2005**

**PART I**

**GENERAL AND INTERPRETATION**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005.

(2) With the exception of regulations 26(7) and 32, the Regulations shall come into operation on 25th September 2005.

(3) Regulations 26(7) and 32 shall come into operation on 25th December 2005.

**Interpretation**

2. In these Regulations, unless the context otherwise requires –

“the Order” means the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981;

“advertisement” includes every form of advertising by whatever means;

“agency” means an employment agency as defined in Article 11(1) and (2) of the Order and includes a person carrying on an agency, and in the case of a person who carries on both an agency and an employment business means such a person in his capacity in carrying on the agency;

“business day” means a day other than a Saturday or a Sunday, Christmas Day or Good Friday, or a day which is a bank holiday under or by virtue of the Banking and Financial Dealings Act 1971(1) in that part of Northern Ireland;

“company” includes any body corporate (whether incorporated in Northern Ireland or elsewhere) and references to directors and other officers of a company and to voting power at any general meeting of a company have effect in the case of a company incorporated outside Northern Ireland with any necessary modifications;

“employment business” means an employment business as defined in Article 11(1) and (3) of the Order and includes a person carrying on an employment business, and in the case of a person who carries on both an employment business and an agency means such a person in his capacity in carrying on the employment business;

“hirer” means a person (including an employment business) to whom an agency or employment business introduces or supplies or holds itself out as being capable of introducing or supplying a work-seeker;

“publication” means any publication whether in paper or electronic form other than a programme service within the meaning of the Broadcasting Act 1990<sup>(2)</sup>;

“work-finding services” means services (whether by the provision of information or otherwise) provided –

- (a) by an agency to a person for the purpose of finding that person employment or seeking to find that person employment;
- (b) by an employment business to an employee of the employment business for the purpose of finding or seeking to find another person, with a view to the employee acting for and under the control of that other person; or
- (c) by an employment business to a person (the “first person”) for the purpose of finding or seeking to find another person (the “second person”), with a view to the first person becoming employed by the employment business and acting for and under the control of the second person; and

“work-seeker” means a person to whom an agency or employment business provides or holds itself out as being capable of providing work-finding services.

### **The meaning of “connected”**

3.—(1) For the purposes of these Regulations a person is connected with –

- (a) his partner, minor child or stepchild;
- (b) any individual who employs him or is his employee;
- (c) any person who is in partnership with him;
- (d) any company of which he is a director or other officer and any company connected with that company;
- (e) in the case of a company –
  - (i) any person who is a director or other officer of that company;
  - (ii) any subsidiary or holding company, both as defined in Article 4 of the Companies (Northern Ireland) Order 1986<sup>(3)</sup>, of that company and any person who is a director or other officer, or an employee of any such subsidiary or holding company; or
  - (iii) any company of which the same person or persons have control; and
- (f) in the case of a trustee of a trust, a beneficiary of the trust, and any person to whom the terms of the trust confer a power that may be exercised for that person’s benefit.

(2) For the purposes of paragraph (1)(a) “partner” means –

- (a) on and before 4th December 2005, a spouse or the person with whom a person lives as husband or wife, or the person with whom a person lives in a relationship which is between two persons of the same sex such that they would be regarded as living together as husband and wife if they were two persons of the opposite sex;
- (b) on and after 5th December 2005, a spouse, civil partner or the person with whom a person lives as husband or wife or as if they were civil partners.

(3) For the purposes of paragraph (1)(e)(iii) a person is to be taken as having control of a company if –

- (a) he or any person with whom he is connected is a director of that company or of another company which has control of it;

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(2) 1990 c. 42; section 201 was amended by 1996 c. 42, Schedule 10, paragraph 11

(3) S.I. 1986/1032 (N.I. 6); Article 4 was substituted by S.I. 1990/1504 (N.I. 10), Article 62

- (b) the directors of that company or another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions; or
- (c) he is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company or of another company which has control of it.

#### **Transitional and Saving Provisions and Revocation**

- 4.—(1) The transitional and saving provisions in Schedule 1 shall apply.
- (2) Subject to the provisions of Schedule 1, the following statutory rules are hereby revoked –
- (a) the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 1982(4);
  - (b) the Employment Agencies (Charging Fees to Workers) Regulations (Northern Ireland) 1982(5); and
  - (c) the Employment Agencies (Charging Fees to Au Pairs) Regulations (Northern Ireland) 1982(6).

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(4) S.R. 1982 No. 253  
(5) S.R. 1982 No. 254  
(6) S.R. 1982 No. 255