

SCHEDULES

SCHEDULE 7

Article 30.

EMPLOYMENT AGENCIES

Introduction

1. The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 shall be amended as provided by this Schedule.

General regulations

- 2.—(1) Article 6 (power to make general regulations) shall be amended as follows.
- (2) In paragraph (1) there shall be substituted for sub-paragraphs (g) and (h)—
- “(g) restricting the services which may be provided by persons carrying on such agencies and businesses;
 - (h) regulating the way in which and the terms on which services may be provided by persons carrying on such agencies and businesses;
 - (j) restricting or regulating the charging of fees by persons carrying on such agencies and businesses.”.
- (3) After paragraph (1) there shall be inserted—
- “(1A) A reference in paragraph (1)(g) and (h) to services includes a reference to services in respect of—
- (a) persons seeking employment outside the United Kingdom;
 - (b) persons normally resident outside the United Kingdom seeking employment in the United Kingdom.”.
- (4) Paragraph (2) shall be omitted.

Charges

3. For Article 7(1) (restriction on demand or receipt of fee for finding or seeking to find employment) there shall be substituted—

- “(1) Except in such cases or classes of case as the Department may prescribe—
- (a) a person carrying on an employment agency shall not request or directly or indirectly receive any fee from any person for providing services (whether by the provision of information or otherwise) for the purpose of finding him employment or seeking to find him employment;
 - (b) a person carrying on an employment business shall not request or directly or indirectly receive any fee from an employee for providing services (whether by the provision of information or otherwise) 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;

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- (c) a person carrying on an employment business shall not request or directly or indirectly receive any fee from a second person for providing services (whether by the provision of information or otherwise) for the purpose of finding or seeking to find a third person, with a view to the second person becoming employed by the first person and acting for and under the control of the third person.”.

Offences

4. After Article 9 there shall be inserted—

“Offences: extension of time limit

9A.—(1) For the purposes of paragraph (2) a relevant offence is an offence under Article 5B, 6(3), 7(2) or 9(2) for which proceedings are instituted by the Department.

(2) Notwithstanding Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (complaint to be made within 6 months of offence) a complaint relating to a relevant offence may be made at any time—

- (a) within 3 years after the date of the commission of the offence, and
- (b) within 6 months after the date on which evidence sufficient in the opinion of the Department to justify the proceedings came to its knowledge.

(3) For the purposes of this Article, a certificate of the Department as to the date on which evidence came to its knowledge is conclusive evidence.

Offences: cost of investigation

9B. The court in which a person is convicted of an offence under this Order may order him to pay to the Department a sum which appears to the court not to exceed the costs of the investigation which resulted in the conviction.”.

Regulations and orders

5. For Article 10(3) (regulations: procedure) there shall be substituted—

“(5) Regulations under Article 6(1) or 7(1) shall not be made unless a draft has been laid before, and approved by resolution of, the Assembly.

(6) Regulations under Article 11(5)(g) shall be subject to negative resolution.”.

Interpretation

6. In Article 11(2) (definition of employment agency) for “workers” (in each place) there shall be substituted “persons”.

Exemptions

7. For Article 11(5)(g) there shall be substituted—

“(g) any prescribed business or service, or prescribed class of business or service or business or service carried on or provided by prescribed persons or classes of person.”.