
DRAFT STATUTORY INSTRUMENTS

2003 No.

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

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 2003.

(2) With the exception of regulations 26(7) and 32, the Regulations shall come into force on 6th April 2004.

(3) Regulations 26(7) and 32 shall come into force on 6th July 2004.

Interpretation

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

“the Act” means the Employment Agencies Act 1973;

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

“agency” means an employment agency as defined in section 13(1) and (2) of the Act⁽¹⁾ 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⁽²⁾ in that part of Great Britain;

“company” includes any body corporate (whether incorporated in Great Britain 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 Great Britain with any necessary modifications;

“employment business” means an employment business as defined in section 13(1) and (3) of the Act 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;

(1) Section 13(2) was prospectively amended by the Employment Relations Act 1999 (c. 26), Schedule 7, paragraphs 1
(2) 1971 c. 80.

“publication” means any publication whether in paper or electronic form other than a programme service within the meaning of the Broadcasting Act 1990(3);

“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;
- (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;

“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 spouse or 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 section 736 of the Companies Act 1985(4), of that company and any person who is a director or other officer, or an employee of any such subsidiary or holding company;
 - (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)(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;
- (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.

(3) 1990 c. 42; section 201 was amended by the Broadcasting Act 1996 (c. 42), Schedule 10, paragraph 11, and prospectively by the Communications Act 2003 (c. 21), section 360(1)(a), (b) and (2).

(4) 1985 c. 6; section 736 as originally enacted was substituted by the Companies Act 1989 (c. 40), section 144(1).

(2) Subject to the provisions of Schedule 1, the following statutory instruments are hereby revoked—

- (a) the Conduct of Employment Agencies and Employment Businesses Regulations 1976⁽⁵⁾;
- (b) the Employment Agencies Act 1973 (Charging Fees to Workers) Regulations 1976⁽⁶⁾; and
- (c) the Employment Agencies Act 1973 (Charging Fees to Au Pairs) Regulations 1981⁽⁷⁾.

⁽⁵⁾ S.I.1976/715.
⁽⁶⁾ S.I. 1976/714.
⁽⁷⁾ S.I. 1981/1481.