1982 No. 253

EMPLOYMENT

Conduct of Employment Agencies and Businesses Regulations (Northern Ireland) 1982

Made . . . . . *5th August 1982*

Coming into operation . . . *3rd September 1982*

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The Department of Manpower Services in exercise of the powers conferred on it by Articles 6(1) and 10(1) of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981(a) and of every other power enabling it in that behalf, after consultation, in accordance with Article 10(2) of that Order, with such bodies as appear to it to be representative of the interests concerned, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Conduct of Employment Agencies and Businesses Regulations (Northern Ireland) 1982 and shall come into operation on 3rd September 1982.

(2) In these Regulations—

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

"abroad" means outside the United Kingdom;

"advertisement" includes every form of advertisement whether in a newspaper or other publication, or by an exhibition of photographs or films, or by way of sound broadcasting or television, or by means of circulars, posters, notices, signs, labels or other documents, and reference to the issue of an advertisement shall be construed accordingly;

"agent" means a person carrying on an employment agency;

"agent abroad" means a person whose services are used by an agent in arranging work abroad;

"agreed deductions" means any deductions which a worker has in writing authorised an agent to make from money received by the agent on the worker's behalf;

"au pair" means a person who is received or is to be received into a private household under an arrangement whereby that person is to assist in the domestic work of the household in consideration of receiving hospitality and pocket money or hospitality only;

"client account" means a current or deposit account in the name of an agent at a bank in the title of which account the word "client" appears;

"contractor" means a person carrying on an employment business;

"entertainment industry" means the production and presentation of—

(*a*) films, television and sound broadcasts, and recordings; and

(*b*) plays, operas, ballets, musical and variety performances, and other similar means of entertainment whether taking place in theatres, concert halls, dance halls, clubs or any other places of public or private entertainment;

(a) S.I. 1981/839 (N.I. 20)

"hirer" means a person to whom a contractor supplies workers to act for, and under the control of, that person, in any capacity;

"outward journey" means the journey from the place of residence of a worker to the prospective place of employment;

"performer" means an actor, singer, musician, dancer or other performer in the entertainment industry;

"premature termination" means the termination of the employment of the worker for whatever reason, not later than ten weeks after the date of commencement of employment;

"premises" means the premises at which the employment agency or employment business is, or the employment agency and the employment business are, as the case may be, being carried on;

"self-employed" means employed otherwise than under a contract of service, or of apprenticeship;

"statutory deductions" means deductions which are required by law to be made before remuneration is paid to a worker;

"young person" means a person under the age of eighteen.

PART II

EMPLOYMENT AGENCIES

General obligations

2.—(1) An agent shall take all such steps as are reasonably practicable to obtain from an employer as much information about a vacancy as is necessary for the purpose of selecting a suitable worker for that vacancy, and to obtain from a worker as much information about his qualifications and experience as is necessary for the purpose of determining employment for which he is suitable.

(2) Subject to the provisions of the Order and of any enactment relating to the disclosure of information, an agent shall not disclose information relating to workers and employers except—

(*a*) in the course of providing services for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them, provided that information shall not be so disclosed if the worker or the employer who furnished it has so requested; or

(*b*) with the written consent of the worker or employer; or

(*c*) for the purpose of any legal proceedings (including arbitration).

(3) An agent shall not introduce a worker to an employer unless he has made all such enquiries as are reasonably practicable for the purpose of ascertaining that—

(*a*) the worker has such qualifications as are required by law for such employment;

(*b*) the employer and the worker are aware of any conditions imposed by law which must be satisfied by the worker or the employer before the worker commences the employment in question; and

(*c*) the employment of the worker by the employer would not contravene any other duty or restriction imposed by law.

(4) An agent shall not make the provision of his services to a worker for finding or seeking to find him employment conditional upon the worker using other services provided by the agent for which the agent is not prevented by the Order from charging the worker a fee.

(5) An agent shall not directly, or indirectly offer or give any financial benefit or benefit in kind to a worker in order to induce, or seek to induce, him to use the services of the agent for the purpose of finding him or seeking to find him employment.

(6) Where a worker is in employment and the agent has previously received a fee for introducing him to that employment, the agent shall not make, or cause to be made, any approach to that worker to offer services to find him new employment, unless the present employer of the worker has agreed to such an approach being made.

Advertisements and business letters

3.—(1) An agent shall, in every advertisement issued by him or on his behalf, mention in easily legible characters—

(*a*) the full name and address of the employment agency and, if the name does not disclose that fact, that it is an employment agency;

(*b*) where the advertisement is to be published outside Northern Ireland, that the employment agency is licensed in Northern Ireland; and

(*c*) in the case of a circular, the number of the current licence relating to the premises from which the circular is sent.

(2) Where an agent issues an advertisement in which he offers the service of providing information about vacancies or opportunities for employment but he has no authority from an employer to find workers for such employment, he shall state that fact in the advertisement.

(3) An agent shall take all such steps as are reasonably practicable to ensure that in every advertisement relating to employment in the United Kingdom, which he issues for publication outside the United Kingdom, there is contained a statement that it is the responsibility of the worker to make enquiries from a representative of the United Kingdom Government about any relevant immigration requirements, and that there are stated any other conditions which must by law be satisfied by a worker entering the employment in question.

(4) An agent shall keep a copy of every advertisement which he issues, or causes to be issued, from the premises and a copy of every advertisement issued from other premises on his behalf which includes information about vacancies, or, as the case may be, workers, available through the employment agency carried on at the first-mentioned premises, and such a copy shall be kept for a period of one year from the date on which the advertisement was issued.

(5) An agent shall, in every business letter which he sends, or which is sent on his behalf, mention in easily legible characters—

(*a*) the full name and address of the employment agency and, if the name does not disclose that fact, that it is an employment agency; and

(*b*) the number of the current licence relating to the premises from which the business letter is sent.

Fees

4.—(1) Except in such cases or classes of case as may be prescribed by the Department under Article 7(1) of the Order, (that is to say, in cases in which an agent charges a fee to a worker for finding or seeking to find employment for him), an agent shall, immediately upon receipt of a request from an employer to find him a worker, or on making an approach to an employer offering to find him a worker, provide the employer with a written statement for his retention, containing details of the agent's current terms of business set out in easily legible characters (except where the employer has already received such a statement).

(2) The written statement required under paragraph (1) shall include the following details—

(*a*) the scale of fees;

(*b*) the circumstances, if any, in which rebates are payable to employers, the scale of such rebates, and if no rebate is payable in any circumstances, a statement to that effect.

(3) In a case or class of case prescribed by the Department under Article 7(1) of the Order, the agent shall, before providing a worker with a service of finding or seeking to find him employment, provide the worker with a written statement for his retention containing details of the agent's current terms of business, including the scale of fees, set out in easily legible characters (except where the worker has already received such a statement).

(4) An agent shall keep the Department informed in writing of his current terms of business with employers and, in such cases or classes of case prescribed by the Department under Article 7(1) of the Order, with workers.

(5) An agent shall, before providing to a worker any service of the employment agency other than the service of finding or seeking to find him employment, for which he proposes to charge a fee, provide the worker with a written statement for his retention which shall include the following details set out in easily legible characters—

(*a*) the amount of the fee;

(*b*) the services for which the fee is charged;

(*c*) any circumstances in which part of the fee paid as a deposit or otherwise is, or is not, returnable.

Young persons

5.—(1) An agent shall not arrange employment for a young person who, at the time the employment is arranged, is normally resident in the United Kingdom, and the proposed employment is at a place outside the United Kingdom or is normally resident outside the United Kingdom, and the proposed employment is in the United Kingdom, unless—

(*a*) the previous written consent to such employment has been signed by, and obtained directly from, the parent or guardian of the young person; and

(*b*) the agent has made all such enquiries as are reasonably practicable to ensure that—

(i) suitable accommodation at a price appropriate to the wages to be paid to the young person has been arranged for, and is acceptable to him; and

(ii) the young person has a return ticket from the place of employment to his normal place of residence, or a written undertaking has been obtained from a suitable person that the amount of the return fare will be paid or loaned by him in the event of the non-commencement, the premature termination, or the completion of a fixed term, of employment.

(2) If the person from whom a written undertaking has been obtained under paragraph (1)(*b*)(ii) does not comply with the undertaking, the agent shall loan the return fare to the young person on request by him.

(3) This Regulation shall not apply to young persons to whom section 25 of the Children and Young Persons Act 1933(**a**), section 42 of the Children and Young Persons Act 1963(**b**) or sections 40 to 43 of the Children and Young Persons Act (Northern Ireland) 1968(**c**), apply.

(**a**) 1933 c. 12
(**b**) 1963 c. 37
(**c**) 1968 c. 34 (N.I.)