



BIS | Department for Business
Innovation & Skills

**EMPLOYMENT AGENCIES
AND EMPLOYMENT BUSINESSES**

A Guide to Government Regulations

Government regulations apply to employment agencies and employment businesses, such as:

- The familiar recruitment agency on the high street
- Specialist agencies in modelling and entertainment
- Executive search consultants
- Agencies hiring out workers on a temporary basis, (often referred to as “temping”)
- Online job boards



If you are unsure if you are acting as an employment agency or employment business, or you would like further information on the regulations, you can call the **Pay and Work Rights Helpline**.



Calls from some mobile phones will be free and others may vary. Check with your mobile phone provider for more information.

The helpline also provides information and advice on minimum wage, working hour limits and deductions.

If you supply these services, this leaflet provides information on some of your legal obligations.

If you are supplying temporary workers to the agricultural sector then you must hold a licence issued by the Gangmasters Licensing Authority (GLA). Further information on the GLA, who requires a licence and how to apply can be found at www.gla.gov.uk

Fees

Employment agencies and employment businesses in the UK are prohibited from charging fees to work-seekers for finding or seeking to find them work. The exception is the finding of jobs for performers and certain other workers in the entertainment field and photographic and fashion models. This exception is subject to certain limitations set out in the regulations.

Pay and written statements

You must issue written terms and conditions to both work seekers and hirers before you undertake any work finding services.

For hirers, you must set out exactly in what capacity you are operating (as an employment agency, employment business or both) and the scale of fees and rebates.

For work seekers, the terms must set out:

- Exactly who you are
- What you are going to do for them
- The type of work you will try and find them, as well as the minimum rate of pay (for temps and contractors) or salary range (for permanent placements) you expect to be able to achieve for them

- You must also set out, in writing, any additional services that you provide, such as CV writing, provision of personal protective equipment, and the cost of such items

You must also pay the work seeker for all hours worked, regardless of whether or not you have been paid. (There are a few exceptions including for agencies operating in entertainment and modelling sectors).

Health and safety

It is your responsibility to ensure that the work seeker is aware of any potential health and safety issues for each and every assignment that they undertake, for example whether hi-visibility jackets and safety boots are required.

You should enquire of the hirer what their health and safety policy is, and also ask for any additional information that is relevant to the job that you are trying to fill, such as any machinery that may be operated.

Confidentiality

You must not disclose information about a work seeker to anyone, without the worker's consent, other than:

- For the purposes of finding them work
- For legal proceedings
- To any professional body of which the worker is a member
- To the Employment Agency Standards Inspectorate during the course of an inspection of your records

Notification of assignments

You may give verbal notification of an assignment, but this must be followed up with written notification for each and every job or assignment, including the name and address of the hirer, and contact details. You must give the hirer details of the work seeker(s) being sent to work for them, as well as details of their qualifications relevant to the job. Ideally this should be before any work is undertaken, but must be done within 3 days of the assignment starting. Where a temporary work seeker is supplied to the same hirer again after a break of 5 days or less, then these details do not need to be sent again, unless specifically requested by either the work seeker or the hirer.

Record keeping

You must keep all relevant records for no less than 12 months after you last acted for a work seeker or a hirer. However, if you are involved in the entertainment or modelling sectors, then these records must be retained for at least 6 years.

These records must include (but are not limited to):

- Details of the worker and their home address
- Professional qualifications and training
- The results of any CRB checks
- The work seeker's registration form and/or CV (if supplied)
- Details of all assignments or jobs
- The hirer's name and address
- Confirmation of the identity of the worker supplied
- Details of any enquiries relating to health and safety issues for each and every hirer and any site specific details
- Any advertising material

You must also maintain records where you enter into an agreement with another agency to supply work seekers, including what capacity you will act in, and the responses to the enquiries that you have made in to the other employment agency or employment business'

suitability to act as such. You will need to make further enquiries if the other employment agency or employment business is allowed to receive payments on behalf of the work seeker.

Restrictions on charges to hirers

In certain circumstances, you can charge the hirer a fee for taking on a temporary worker as a permanent member of staff, or agree a period of specified hire as an alternative.

This includes:

- Where you have agreed to supply a temporary worker and they are taken on permanently before they start the assignment
- Where a temporary worker is on an assignment and is taken on permanently, or is supplied to the hirer through another employment business
- Where the worker is introduced by the hirer to a third party

You need to take account of the relevant periods during which the fee can be charged and these are spelt out in the legislation.

However, you should note that it is entirely up to the hirer whether or not to take an extended hire period or opt to pay a transfer fee.

If you do not wish to charge a transfer fee or allow for a period of extended hire, then you do not need to include these in your terms of business.



Entertainment and modelling agencies

If you are operating in the entertainment and/or modelling sectors, then you will still need to follow the regulations like any other agency. The main difference is that you may be permitted to collect money on behalf of workers in specific occupations, in which case you will need to deposit the money into a separate client account.

You may only withdraw from this account money owed to the worker, and your agreed commission or fee. It must not be used to pay for other things, such as rent, electricity or staff salaries. You do not need a separate client account for each worker, but in some instances you may choose to do this. You will also need to have the client account(s) audited every year, and display the results of this audit in your office for all to see.

There are other rules that apply to the running of an entertainment or modelling agency, particularly relating to the receipt of payment on behalf of a worker, and you should seek your own legal advice before you start an agency business in this area.

Consultations

Following a public consultation the Government has announced some changes to the Conduct Regulations that will come into force in October 2010.

The changes will simplify and remove certain obligations for employment agencies with regards to agreeing terms and the carrying out of suitability checks. There will also be changes to the requirements when placing advertisements and increased restrictions on the charging of upfront fees in the entertainment and modelling sector.

The Government is also in the process of consulting on its plans to implement the European Agency Workers Directive which was agreed by all EU Member States and the European Parliament in December 2008.

This will mean that after 12 weeks in a given job an agency worker will be entitled to equal treatment on basic working and employment conditions, including pay and holidays, as if they had been recruited directly by the hirer to occupy the same job.

Up to date information is on the BIS website www.bis.gov.uk



Useful contacts



Text phone **0800 121 4042**

Calls from some mobile phones will be free and others may vary. Check with your mobile phone provider for more information.

Acas

A public body promoting good workplace relations, providing free advice on employment rights and contractual matters. Call the helpline on **08457 474747** or visit www.acas.org.uk

Health and Safety Executive (HSE)

To speak to an expert on Health and Safety call **0845 345 0055** or visit www.hse.gov.uk

Recruitment and Employment Confederation (REC)

REC is the main trade association representing the private recruitment industry. Member agencies have to abide by their Code of Practice. Visit their website at www.rec.uk.com for information, including details of their members.

The Employment Agents Movement (TEAM)

TEAM is the largest network of independent recruiters in the UK. For more information visit their website at www.jobsatteam.com

In Northern Ireland

Department for Employment and Learning (NI)

Employment Relations Policy and Legislation Branch
Call **028 9025 7493** or visit www.delni.gov.uk

Labour Relations Agency (LRA) Northern Ireland

Call **028 9032 1442** or visit www.lra.org.uk

The Pay and Work Rights Helpline

In Northern Ireland the helpline deals with national minimum wage and GLA only. Call **0800 917 2368**