

Extract of Guidance on the Conduct of Employment Agencies and Employment Businesses Regulations 2003... Regulations in force since July 2004

Part IV

Requirements to be Satisfied before a Work-seeker is Introduced or Supplied to a hirer

Regulation 18 – Information to be obtained from a hirer

Regulation 18 provides that employment agencies must not introduce or supply a work-seeker to a hirer unless it has sufficient information from the hirer to select a suitable work-seeker for the position the hirer seeks to fill.

The following information should be obtained:-

- the identity of the hirer and, if applicable, the nature of the hirer's business.
- the date on which the hirer wants a work-seeker to start work and the duration or likely duration of the work;
- the position, including the type of work the work-seeker would be required to do, the location at which and the hours s/he would be required to work and any risks to health and safety known to the hirer and the steps that have been taken by the hirer to prevent or control such risks. This is an important health and safety point and careful note should be taken of it. Essentially under this regulation an agency must ensure that the hirer has carried out a thorough risk assessment of its site, equipment and working conditions so that sufficient information can be given to the work-seeker before s/he is either supplied or introduced to the hirer; in practice it would be advisable to obtain a copy of the risk assessment carried out by the hirer.
- the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which the worker needs to have by law or by the requirements of any professional body in order to carry out the work.
- any expenses payable to the work-seeker – and this will include not only expenses payable once the work-seeker starts work but also any expenses incurred in attending interviews prior to work commencing. It also includes expenses payable by the work-seekers, e.g. where they are required to pay for a mandatory Criminal Records Bureau check; and in the case of any employment agency the minimum rate of pay and any other benefits offered by the hirer and the intervals at which they would be paid; and, where applicable, the length of notice which a work-seeker would be required to give and entitled to receive, to end the employment with the hirer.

Regulation 19 – Confirmation to be obtained about a work-seeker

Provides that an employment agency must not introduce or supply a work-seeker to a hirer unless it has obtained confirmation:

- of the identity of the work-seeker. This will mean seeing any document which provides evidence of the work-seeker's identity, such as his/her passport, driving licence, birth certificate.
- that the work-seeker has the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which the worker needs to have by law or by the requirements of any professional body, in order to carry out the work. This obligation can be properly discharged by the agency when registering a work-seeker. During the registration process it should request sight of evidence of training received, qualifications and authorisations such as certificates, and registrations with professional bodies.
- that the work-seeker is willing to work in this position.

Regulation 20 – Steps to be taken for the protection of the workseeker and the hirer

Regulation 20(1) provides that an employment agency is not allowed to introduce or supply a work-seeker to a hirer unless it has made checks to ensure that the work-seeker and the hirer are each aware of any legal or professional body requirements which either of them have to satisfy to enable the work-seeker to

work for the hirer. It will, of course, mean that the agency must be aware of any requirement in relation to particular types of work or job descriptions and presupposes a good working knowledge of the sector it is operating in. Evidence of the checks carried out should be retained, such as, for example, written confirmation from both the hirer and the work-seeker that they are aware of the legal or professional requirements that must be satisfied before the work in question is carried out.

Regulation 20(1)(b) extends this requirement by placing an obligation on the employment agency to ensure that it would not be detrimental to the interests of either party (hirer or work-seeker) for the placement to go ahead. This is more than a health and safety issue and could cover matters such as a reasonable suspicion that the company was in severe financial difficulties or was engaged in immoral or illegal practices.

- An employment agency has no obligation to inform a hirer if such information comes to light after three months from the date the worker was introduced.

Regulation 21 – Provision of information to work-seekers and hirers

Regulation 21(1)(a) provides that when an employment agency proposes a work-seeker to a hirer it must give the hirer all the information it has obtained about the work-seeker under the requirements of regulation 19. (Namely the work-seeker's identity, experience, training, qualifications and authorisations required and that the work-seeker is willing to do the work in question.)

Under regulation 21(1)(b), when an agency offers a work-seeker a position with a hirer, it must give the work-seeker the information about the hirer it has obtained under the requirements of regulation 18.

Under regulation 21(2) the information referred to above must be confirmed in written or electronic form as soon as possible or in any event no later than the end of the third business day after the hirer/the work-seeker was first given the information orally.