

Employing agency workers

Changes to the Conduct of Employment Agencies and Employment Businesses Regulations 2007 mean that any agency workers you employ are better protected, say Anne Hughes and Ronnie Fox at City law firm, Fox

Agency workers enable businesses to react quickly to changing workloads and customer demand. But do the agencies you use give them a fair deal?

In February 2007, the Government launched a consultation on measures to protect vulnerable agency workers. The outcome is the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2007 ('the Amendment Regulations 2007') which came into force on 6 April 2008.

The Amendment Regulations 2007 impose slightly tighter restrictions on employment agencies, by amending the Conduct of Employment Agencies and Employment Businesses Regulations 2003. The amendments ensure increased protection for the people you employ through agencies, while providing a balance between the interests of agencies, those who work for them and the businesses that employ them. They aim to encourage businesses to adopt best practice.

Payment for additional services

Since 2004, it has been illegal for an employment business to offer a job to an agency worker on the condition they will pay for additional, 'hidden' services. These could be CV-writing or having accommodation and travel arranged by the agency. The Amendment Regulations 2007 strengthen the protection offered to agency workers who choose to sign up for such services.

- An agency worker will be entitled to cancel the services by giving 5 business days' notice in writing (or, if the services relate to the provision of living accommodation, 10 days).
- It is illegal for an agency to take detrimental action against the agency worker or impose a penalty because the agency worker has cancelled the service.
- The agency worker must be informed of his right to cancel.



“Some agency workers will have the same basic rights as other employees”

Ronnie Fox, Fox

Providing information

If an agency intends to introduce or supply a work-seeker to a client, the agency is legally obliged to provide certain details about each to the other. This information must be confirmed in writing to the work-seeker within 3 business days of being offered the job, and to the client within 3 days of the agency proposing the particular worker. However, where assignments last 5 consecutive business days or less, a new exemption applies. This means:

- The agency need only give the client the name of the worker and confirm in writing that it has complied with regulation 19 of the Conduct Regulations 2003 (i.e. to confirm the identity of the worker, the relevant skills, qualifications, experience and authorisation to fill the post and that the worker is willing to do the job offered).

Entertainment and models

The other main change is aimed at tackling unscrupulous practices in the entertainment and models sector where agencies are permitted to charge fees to work-seekers for finding jobs or inclusion in a publication. The Amendment Regulations 2007 provide a cooling-off period for work-seekers who are asked to pay a fee by an agency in return for a promise that their details or a photograph will appear in a publication.

- The work-seekers have 7 days to change their mind, in which case no fee is payable.
- It is illegal to impose any penalty or take any detrimental action against the work-seeker if they change their mind.

In the pipeline...

A proposed Temporary Workers Directive aims to give agency workers the same basic rights with regard to remuneration, working hours, overtime, holidays, maternity and protection as other employees. Once the directive has been adopted by the EU, the UK Government will be obliged to introduce legislation.

The Government, in consultation with the TUC and the CBI, has agreed that agency workers will be entitled to the same basic employment conditions as direct employees (excluding sick pay and pensions payments) after being in post for 12 weeks. We expect new legislation before the year is out.

TO HELP YOUR BUSINESS COMPLY...

- You can download a copy of the Conduct Regulations 2003 and the Amendment Regulations 2007 from www.opsi.gov.uk
- Download guidance on the Amendment Regulations 2007 from the BERR website. (You will need Acrobat Reader 7.) Go to www.berr.gov.uk/files/file45239.pdf