

A guide for companies using recruitment agencies

Higher standards for the recruitment industry

The government has introduced the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the Conduct Regulations) to raise standards within the recruitment industry. These Regulations stipulate how recruitment businesses should operate, providing added protection for job seekers and companies using the services of recruiters. In many respects the Conduct Regulations bring the law into line with the REC's own Code of Practice for its members.

Information to be supplied to you

According to the Conduct Regulations, as a client you must be given a contract by the agency or business supplying recruitment services which sets out their terms of business. The recruiter must also confirm the identity of the work-seeker, that the worker-seeker has the experience, training and qualifications that you require for the position and that they are willing to work in the position. Agencies and businesses are also required to obtain information about the position from you including information on any risks to health and safety known to you and steps taken to prevent and control such risks.

Obligations to inform you if a work-seeker is unsuitable
The Regulations introduce a new obligation on recruitment agencies and businesses to notify you if they obtain information that means the work-seeker is or may be unsuitable. For businesses supplying temporary or contract staff this obligation to you is ongoing during the supply of a temporary worker. In the case of permanent recruiters, they are obliged to notify you if they obtain such information during the first three months after introducing a candidate.

Restrictions on employment businesses charging temp to perm fees

Traditionally employment businesses charge a fee if you take a temporary worker on directly during or after a temporary assignment, known as a "temp to perm" fee. Under the new Conduct Regulations if you take a temporary worker on directly, you may still be liable to pay a transfer fee, provided the employment business gives you the option of an extended period of hire as an alternative to the fee. In addition the employment business may only charge you a fee, if you take on the temporary worker within a period of

8 weeks after the end of an assignment, or 14 weeks from the start of the assignment (whichever is the later). Recruiters acting as employment agencies i.e. recruiters introducing permanent candidates, are not restricted in charging fees under the Regulations. The Regulations dealing with temp to perm fees are complex and should you wish to obtain further information you should discuss the provisions with an REC member firm.

Incorporated work-seekers

The Conduct Regulations also cover work-seekers who contract their services through a limited company. However incorporated work-seekers are permitted to opt out of the scope of the Regulations if they give appropriate notice to an employment business. This means that the Conduct Regulations will not apply to the supply of that person's services. The decision whether or not to opt out belongs to the incorporated work-seeker and it is illegal for an employment business to make opting out of the Regulations a pre-condition of finding or offering them work. However if a limited company contractor (LCC) has opted out of the Conduct Regulations, the supplying employment business is under a duty to inform you before supplying that LCC.



VAT

In most cases the provision of recruitment services will attract VAT. Certain methods which recruiters use to mitigate VAT for certain types of clients, known as VAT "friendly schemes" are affected by the Regulations. However, HM Customs and Excise announced a VAT concession known as the Business Brief 10/04 Concession from 6th July 2004. This concession enables recruiters to continue to mitigate VAT for you when they supply temporary staff. It was due to run for 18 months from 6th July 2004, but remains in place although it is currently under review with HMRC.



For more information

The Regulations are published by BERR (formerly the DTI) and are available from The Stationery Office on their website
<http://www.legislation.hmso.gov.uk/si/si2003/20033319.htm>

The REC

The Recruitment and Employment Confederation (REC) is the trade body that supports and represents the recruitment industry. Worth £24.5 billion to the UK economy, the recruitment industry is responsible for placing 1.2 million temporary workers on assignment each week and placing over 700,000 employees in permanent work each year.

Recruitment impacts on every sector of the UK economy.

The REC's membership is made up of over 8,000 recruitment agencies and businesses (corporate members) and 6,000 recruitment professionals (individual members).

The REC seeks to promote high professional standards and good practice within the industry.

In addition to the above obligations and restrictions REC members are required to adhere to the REC Code of Good Recruitment Practice which is available to view on our website www.rec.uk.com. The REC Code of Practice has been created in consultation with industry stakeholders to ensure that all members of the REC conduct their business ethically and to the highest standards.

This publication is provided as guidance and is not a substitute for detailed advice on related matters and issues and should consequently not be taken as providing comprehensive legal advice on the topic or topics discussed.

REC

15 Welbeck Street, London W1G 9XT
t: 0207 7462 3260 f: 020 7255 2878
e: info@rec.uk.com

4th Floor, Albion House, Chertsey Road,
WOKING GU21 6BT
f: 01483 714979