EXPLANATORY MEMORANDUM TO

THE CONDUCT OF EMPLOYMENT AGENCIES AND EMPLOYMENT BUSINESSES (AMENDMENT) REGULATIONS 2010

2010 No.

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2010 which come into force on 1 October 2010, amend the Conduct of Employment Agencies and Employment Businesses Regulations 2003 ("the Conduct Regulations").

2.2 The Regulations ban the taking of upfront fees for work finding services from photographic and fashion models. They also extend the statutory cooling off period in respect of any upfront fee from 7 to 30 days for the occupations of actor, background artist, dancer, extra, musician, singer or other performer.

2.3 The Regulations require employment agencies, when charging an upfront fee, to notify all new clients that they have a right to cancel within the appropriate cooling off period. They also clarify that the cooling off period will start only when the agency and work-seeker have agreed to a written contract or oral agreement to terms.

2.4 The Regulations introduce a provision for work-seekers that are charged an upfront fee to see and approve a draft of the information for which they are being charged, prior to payment of a fee for those seeking work as actor, background artist, dancer, extra, musician, singer or other performer. They also introduce a provision for a refund if no publication, for which a worker has paid an upfront fee to have their details included in, is produced and made available to potential hirers within 60 days.

2.5 Regulation 5 of the Conduct Regulations is amended to introduce a provision for a 30 day cooling off period when a photographic image, audio or video recording of the work-seeker is produced as an additional service for an actor, background artist, dancer, extra, musician, photographic or fashion model, singer or other performer. During this time an employment agency or employment business cannot charge a fee and the work-seeker has a right to withdraw without detriment or penalty.

2.6 The Regulations also contain a number of measures to reduce unnecessary administrative burdens on the sector. They eliminate unnecessary duplication with other legislation by removing the requirement for employment agencies to carry out identity and related checks for work-seekers other than those who

will be working with vulnerable people. A “vulnerable person” is a defined term in the Regulations.

2.7 The Regulations remove the requirement that employment agencies introducing work-seekers for permanent employment should obtain agreement to terms with work-seekers (since this adds little value, given that agreement of terms in these cases is a matter between the work-seeker and the permanent employer), except when a work-finding service is being provided for which the agency intends to charge a fee. The Regulations also remove the requirement for the introducing agency to agree terms with the permanent employer, since this is best seen as a contractual matter between the parties..

2.8 Finally Regulation 27 of the Conduct Regulations will be amended so that advertisements for jobs no longer need to include a statement as to whether the organisations is acting as an employment agency or employment business but rather they must state whether a position is ’temporary’ or ’permanent’.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 In the 2009 consultation (see paragraph 8 below) we also proposed to exempt Post Graduate Medical Deaneries from the scope of the Employment Agencies Act 1973. However, following concerns raised by some stakeholders that they had not had an opportunity to fully contribute to this proposal we have decided to re-consult on this specific issue. If we conclude that the most appropriate course of action is proceed with the proposed exemption, this would be done via a separate negative statutory instrument.

4. Legislative Context

4.1 This instrument is being made by the Secretary of State under the Employment Agencies Act 1973.

4.2 The changes are being made following a 12 week public consultation.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Pat McFadden has made the following statement regarding Human Rights:

In my view the provisions of the Conduct of Employment Agencies and Employment Businesses Regulations (Amendment) Regulations 2010 are compatible with the Convention rights as defined in section 1 of the Human Rights Act 1998.

7. Policy background

7.1 The Employment Agencies Act 1973 and the Conduct Regulations govern the conduct of the private recruitment industry and set minimum standards for employment agencies and employment businesses operating from premises in Great Britain. All employment agencies and employment businesses must comply with the provisions in the legislation which are designed to protect both work-seekers and hirers.

7.2 Under the Conduct Regulations, there are certain limited circumstances within the entertainment and modelling sector where employment agencies can charge work-seekers a fee. One of these circumstances is when the agency is permitted to charge an upfront fee for inclusion of information about a work-seeker in a publication, which is a publication for the purpose of finding work-seekers employment or for providing hirers with information about work-seekers. Despite the introduction of a 7 day cooling off period on 6th April 2008 it has become clear that there continues to be significant abuse of the upfront fee provision in this sector.

7.3 This provision has long been the subject of concern as to the potential it allows for abuse of vulnerable work-seekers, in particular photographic and fashion models. These concerns have persisted despite the introduction of a 7 day cooling off period for such fees when the Regulations were last amended in 2008. The ban on upfront fees in respect of the recruitment of photographic and fashion models introduced by these Regulations will address this point directly, significantly reducing the scope for the abuse of upfront fees. In addition, we are tightening the regulatory constraints around the charging of upfront fees in other sectors where the scope for abuse is the most significant, namely recruitment as an actor, background artist, dancer, extra, musician, singer or other performer – in these cases, the cooling off period will be extended from the current 7 to 30 days.

7.4 The requirement for agencies to notify clients of the terms when entering into a contract where they intend to charge a work-seeker a fee, including the client's right to approve any information and the provision for refunds if no publication is ever produced and made available to potential hirers; will also give added protection to work-seekers in occupations for which fees can still be charged. This will allow directories that legitimately use upfront fees as part of their business model to continue operating whilst ensuring safeguards are in place for work-seekers.

7.5 The 30 day cooling off period when a photographic image, audio or video recording of the work-seeker is produced as an additional service for an actor, background artist, dancer, extra, musician, photographic or fashion model, singer or other performer is to deal with the unscrupulous practice of some rogues agencies who convince work-seekers that they need photos or show-reels to find work. They then charge them large fees for this service but never find them work. A 30 day cooling off period will provide that work-seekers shall not be charged during this period and they have an opportunity to withdraw from the arrangement without detriment or penalty.

7.6 We are removing the requirement for employment agencies who introduce workers for permanent employment to undertake suitability checks because the burden for undertaking these in the vast majority of cases rests with the hirer. Removing the requirement for employment agencies to carry out checks (unless the work-seeker will be working with vulnerable people) will introduce greater clarity, eliminate unnecessary duplication and assist in particular the online recruitment industry who find it difficult to comply with this unnecessary regulatory burden.

7.7 We are removing the requirement for employment agencies to obtain advance agreement to terms with work-seekers introduced for permanent employment (unless there will be a fee charged for the work finding service) since this appears in practice to serve little purpose. We are also removing the statutory requirement for an agency introducing a work-seeker for permanent employment to agree terms with the final hirer, since we consider that this is a contractual matter between the commercial parties. Removing these requirements will further reduce regulatory burdens and in particular assist the further development of the online recruitment sector.

7.8 The amendments to the requirements around adverts will create greater clarity for workers for whom the terms 'temporary' or 'permanent' are far more likely to be understood as descriptions of work by the majority of work-seekers than 'employment agency' or 'employment business'.

8. Consultation outcome

8.1 A formal 12 week public consultation was carried out from 19th March 2009 to 11th June 2009. A total of 349 substantive responses to the consultation were received. The consultation covered a variety of measures so the responses reflected the fact that many respondents were only interested in specific aspects of the proposals that related to their own interests. The majority of the responses, around two-thirds, were about the abuse of upfront fees. These responses came from a broad spectrum of interests ranging from individuals (who made up almost half of all respondents), businesses, employment agencies and employment businesses, trade bodies and trade unions.

8.2 The Department also held meetings with key stakeholders both before and during the consultation to gather evidence and invite views. The overwhelming response from stakeholders was that the cooling off period prohibiting the taking of up front fees until seven days have elapsed had not proved effective. The majority were therefore in favour of further measures to protect vulnerable workers in the entertainment and modelling sector and to tackle in particular the abuse of upfront fees, although in terms of a solution the responses varied. There was less debate about the other measures aimed at clarifying lines of responsibility and reducing regulatory burdens. The consultation response is published on the BIS website and is available in the libraries of the House.

9. Guidance

9.1 Updated guidance on the DirectGov and Business Link websites will be available when the amendments come into force. We are also committed to working with the industry and trade unions to raise awareness of the abuses that can occur in the entertainment and modelling sector.

10. Impact

10.1 These measures are estimated to have a cost of £0.6million annually to business but will bring overall benefits to business and consumers of between £1.9 –£2 million annually.

10.2 The £0.6million annual impact on business is primarily from the additional costs some agencies will face as a result of the ban on upfront fees and the strengthening of the regulations around the circumstances under which upfront fees may still be charged.

10.3 The benefits will be around £1.2 million annually to work-seekers from the bans on upfront fees and tightening of the regulations. The reductions in burdens, primarily from removing unnecessary suitability checks will bring benefits of £0.83 million annually.

10.4 Over a 10 year period the best estimate for the net benefit is between £11.1 and £12.0 million. An impact assessment for the changes was published alongside the consultation response.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 BIS will maintain contact with the key stakeholders to monitor the impact of the changes. The Department will also carefully monitor the complaints received via the Employment Agency Standards to evaluate how effective the measures to deal with the abuse of upfront fees have been.

13. Contact

Bal Dhoot at the Department of Business, Innovation and Skills, Tel: 020 7215 8184 or e-mail: Balwinder.Dhoot@bis.gsi.gov.uk or Sue Arrand, Tel: 020 7215 5652 or Sue.Arrand@bis.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
Department for Business Innovation and Skills (BIS)	**Impact Assessment of Employment Agencies Conduct Regulations**	
Stage: Consultation	**Version:** Final	**Date:** September 2009
Related Publications: Government Response		

Available to view or download at:
www.bis.gov.uk

Contact for enquiries: Tim Harrison **Telephone:** (020) 7 215 5799

What is the problem under consideration? Why is government intervention necessary?

a) Duplication of checks in the recruitment of permanent staff via employment agencies
b) Improve the protection for vulnerable workers employed via employment agencies and employment businesses.
c) Correcting an anomaly relating to medical deaneries
d) Reduce the admin burdens for the recruitment industry

What are the policy objectives and the intended effects?

The policy objectives consulted on were:

a) Reducing duplication and improve clarity around suitability checks around permanent recruitment
b) Maintaining fair treatment for workers
c) Reclassify medical deaneries
d) Reduce the admin burden costs on employers so that they are proportionate to risks

What policy options have been considered? Please justify any preferred option. Following consultation the Government is proposing to:

a) Remove the requirement for employment agencies to undertake suitability checks for permanent recruitment which will avoid duplication and reduce admin burdens
b) Ban the charging of upfront fees for some entertainers and tighten the Regulations in this area to further protect work-seekers
c) Correct an anomaly by exempting Postgradeuate Medical Deaneries from the employment agency legislation and remove risk of potentially unnecessary costs for the NHS
d) Make further miscellaneous changes to the Regulations (see main IA for detail)

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The policy will be reviewed after 3 years of implementation. However, the Employment Agency Inspectorate (EAI) monitor and review the Regulations and complaints received on these issues on an ongoing basis.

Ministerial Sign-off For Implementation Stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 16 October 2009

Summary: Analysis & Evidence

Policy Option:	Description: Package of changes to Conduct Regulations to improve protection for vulnerable workers and reduce admin burdens in the industry

COSTS

ANNUAL COSTS	
One-off (Transition) **Yrs**	Description and scale of **key monetised costs** by 'main affected groups' There will be costs for agencies and hirers resulting from the ban on up-front fees for some entertainers (£600k), as well as the from tightening of the Regulations (£41k)
£ 0m	
Average Annual Cost (excluding one-off)	
£ 0.64m	**Total Cost** (PV) **£ 5.5m**

Other **key non-monetised costs** by 'main affected groups' None.

BENEFITS

ANNUAL BENEFITS	
One-off **Yrs**	Description and scale of **key monetised benefits** by 'main affected groups' Work-seekers will benefit from removal of upfront fees (£600k) and by up to £600k/year from tightening of the Regulations. Agencies will benefit by £835k/year mainly due to the removal of suitability checks for permanent recruitment
£ 0m	
Average Annual Benefit (excluding one-off)	
£ 1.9-2m	**Total Benefit** (PV) **£ 16.6 – 17.5m**

Other **key non-monetised benefits** by 'main affected groups' None.

Key Assumptions/Sensitivities/Risks Unit costs for admin burdens are used from PwC (2005) and BIS' ORC survey in 2008. Estimates of numbers of agencies and agency workers are from BIS research. In the absence of reliable data assumptions have been made about numbers of entertainers seeking work through agencies.

Price Base Year 2009	Time Period Years 10	**Net Benefit Range** (NPV) **£ 11.1 – 12m**	**NET BENEFIT** (NPV Best estimate) **£ 11.1- 12m**

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			October 2010	
Which organisation(s) will enforce the policy?			EAI	
What is the total annual cost of enforcement for these organisations?			£ NK	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **NK**	Small **NK**	Medium **NK**	Large **NK**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 0k Decrease of £ 766k **Net Impact** **£** -766k

Key: **Annual costs and benefits:** **(Net) Present Value**

A. Strategic Overview

The Government carried out a consultation between 19th March and 11th June 2009 on the Employment Agency Standards Conduct Regulations 2003 to improve the protection afforded to vulnerable workers, reduce the administrative (admin) burdens faced by industry and take Medical Deaneries out of the scope of the Employment Agencies Act 1973 (also known as "the Act").

Definitions of employment agencies and employment businesses
There is often confusion about the differences between employment agencies and employment businesses. To clarify:

- **Employment agencies** introduce workers to hirers for permanent employment. The worker subsequently becomes the employee of the hirer and has no further contractual relationship with the agency. Work-seekers looking for permanent employment would, therefore, use the services of an employment agency.

- **Employment businesses** introduce workers to hirers for temporary work only. The employment business (also known as temp agencies) will place a worker with a hirer to work. The worker's contractual relationship is with the employment business and it is the employment business that is responsible for paying the worker and managing annual leave etc. These workers are often known as agency workers, hence the confusion over the terms employment agency and employment business.

- **Recruitment businesses that do both.** Some recruitment businesses offer both temporary and permanent vacancies. A work-seeker's relationship with this type of recruiter depends on the nature of the vacancy they are applying for.

For example if a work-seeker is looking for a job on an online jobs board(1) and applies for a permanent vacancy, the recruiter must act as an employment agency in their dealings with the work-seeker. If the work-seeker was using the same recruiter and applied for a temporary job then that recruiter's relationship with the work-seeker is as an employment business and it must act accordingly.

(1) An online jobs board is an internet site where job vacancies are posted (vacancies could be permanent or temporary).

B. Issue

B.1 Groups Affected

The groups that would be affected by the changes are; all employment agencies and employment businesses, work-seekers and hirers that use their services.

Specifically changes to:
- Regulation 26 would impact modelling and entertainment agencies, certain trade press in this sector and 'vulnerable work-seekers'.
- Regulation 32 would impact on anyone who is employed through an incorporated company.
- Regulations 14, 16, 17, 19, 20, 22, and 27 would have an impact on employment agencies and employment businesses and to a lesser extent work-seekers and hirers.
- The Medical Deaneries exemption would have an impact on Deaneries.

The full regulations are available from http://www.opsi.gov.uk/si/si2003/20033319.htm

B.2 Consultation

Within Government
The Department for Business Innovation and Skills (BIS) has developed these proposals in consultation with the following Government departments: Department for Children, Schools and Families (DCSF), Health and Safety Executive (HSE), Department for Work and Pensions (DWP), Home Office (HO) and Department of Health (DH).

Public Consultation
A public consultation was carried out between 19th March and 11th June 2009. The number of responses received as well as the profile of organisations that responded are reported in the accompanying Government Response. The nature of the responses as well as the results of further discussions with stakeholders are discussed under each broad option below.

B.3 Rationale for Government intervention

1. Checking Suitability for Permanent Recruitment
In the absence of Government intervention, there is a risk that agencies are duplicating the work, with respect to suitability checks for permanent recruitment that the employer has to do by law. As a result, inefficiencies arise as both the agency and the employer carry out the checks, when it is possible that only one of the parties would have to do this.

2. Fees payable by entertainers and models
In the absence of Government intervention, there is a risk that some vulnerable agency workers will continue to be mistreated as a result of certain work practices carried out by a minority of businesses and agencies who act in ways the vast majority of agencies would never consider, and who, in doing so, cut corners at the expense of workers and gain an unfair commercial advantage at the expense of reputable agencies.

3. Position of Postgraduate Medical Deaneries
Medical deaneries are responsible for the recruitment and training programme of junior doctors and junior dentists to NHS employers. In 2006 the Deaneries, following NHS re-organisation, moved to become part of strategic health authorities. This moved them within scope of the Employment Agencies Act 1973 and therefore subject to employment agency legislation. In the absence of Government intervention, Deaneries would continue to fall under the employment agencies legislation, when it should be exempt from the Act as Deaneries are not employment agencies. In the absence of intervention there are potentially significant cost implications for the Department of Health in trying to comply with the Conduct Regulations.

4. Miscellaneous Regulation Changes
In the absence of Government intervention, there is a risk that some vulnerable agency workers will continue to be mistreated as a result of certain work practices carried out by a minority of businesses and agencies who act in ways the vast majority of agencies would never consider, and who, in doing so, cut corners at the expense of workers and gain an unfair commercial advantage at the expense of reputable agencies. In addition, there is the risk that some of these regulations pose admin burdens on agencies.

C. Objectives

C1. Objectives

The March 2009 consultation covered 4 broad policy objectives, as follows:

- **Policy Objective 1: Checking Suitability for Permanent Recruitment:** to assess the extent to which the Government can reduce regulatory burdens, clarify lines of responsibility, address overlap and eliminate duplication in respect of suitability checks for workers introduced by employment agencies for permanent employment.

- **Policy Objective 2: Fees payable by entertainers and models:** to examine the fees entertainment and modelling agencies charge with a view to proposing a ban on the taking of upfront fees altogether. Evidence suggests that despite the introduction of the 7-day cooling off period, some agencies continue to abuse it.

- **Policy Objective 3: Position of Postgraduate Medical Deaneries:** to correct an anomaly where, as a result of NHS re-organisation, Deaneries now fall within the scope of the Employment Agencies Act and are subject to employment agency legislation. Deaneries were previously exempt and it was never the intention that they be covered by the Act.

- **Policy Objective 4: Miscellaneous Regulation Changes:** to assess the extent to which the Government can reduce regulatory burdens in areas such as the requirements to agree terms with work-seekers and hirers in respect of permanent recruitment; and the requirements when placing advertisements. In addition this policy objective aims to look at the protection for temporary workers being employed by umbrella companies.

C.2 Background

Vulnerable workers

Regulation	Relevant Information Obligations (IO)	
26: Charging of upfront fees by entertainment and modelling agencies.	**IO 28345** (used as proxy)	Giving notice to the work-seeker of arrangements to pay fares or offer free travel for the work-seeker's journey to the place of work including details of free travel or payment of fares, including any conditions on which they are offered.
32: Amendments to regulations that allow temporary workers employed through umbrella companies to opt-out of the Conduct Regulations.	**IO 28393**	Providing notice to an agency/employment business of an agreement that you (as a company work-seeker) or persons that you supply would not be covered by these regulations (concerning conduct of employment agencies and businesses).

Reducing Admin Burdens for the Industry

Regulation	Relevant Information Obligations (IO)	
19, 20, 22: Reduce the duty for employment agencies, involved in recruitment of permanent workers, to carry out suitability checks when placing work-seekers with an employer.	**IO 28512**	Obtaining confirmation of required information prior to introducing or supplying a work-seeker to a hirer.
	IO 28315	Informing the hirer of a work-seeker that he/she may be unsuitable for the position in which they have been employed.
14, 16, 17: Remove obligations to agree terms with workers in case of permanent recruitment.	**IO 28282**	Sending a copy of the agreed terms to the hirer (unless hirer already has a copy) before first providing services.
27: Simplify the requirements for employment agencies and employment businesses when advertising vacancies.	**IO 2029**	Ensuring that every advert you issue mentions the details stated in the regulation.

Exempting Medical Deaneries

- Exempt Postgraduate Medical Deaneries from the Employment Agencies Act, who following re-organisation of the NHS are now within scope of, and therefore subject to employment agency legislation. This is an anomaly. Deaneries were previously exempt and it was never the intention that they be within the scope of the Act.

D. Options

The discussion of options below first of all summarises the options consulted on under each policy objective, but then focuses on the Government's preferred options following consultation. A more detailed discussion of all of the original options is given in the annex to this IA.

Policy Objective 1: Checking Suitability for Permanent Recruitment

Table D.1 Summary of Options for Policy Objective 1

Option	Summary
1a	to make no changes (do nothing).
1b	amend Regulations 19 (a) & (b) and Regulation 22 in order to remove the requirement for employment agencies (who introduce workers for permanent employment) to undertake suitability checks.
1c	to do the same as Option 1b, plus consult on whether Regulation 20 (5) & (6), (which require an agency to inform the hirer if they receive or obtain information that the worker is unsuitable) is necessary and/or whether there is any benefit in shortening the current 3 month period (after which the obligation lapses).

Responses to the consultation generally supported the removal of the requirement for employment agencies to undertake suitability checks (option 1b), although the feedback suggested that the reduction in burdens for business would be relatively small. However, in the case of online agencies removal of the requirement would enable them to continue to operate their current business models and be compliant with the Conduct Regulations. The Government intends therefore to proceed with this option.

The consultation also highlighted the need to retain safeguards for those working with people under the age of 18 or other vulnerable groups[1]. In these cases checks would still be required.

Furthermore the proposal to shorten the current 3-month period (option 1c) is not being pursued. The consultation showed this to not be a burdensome obligation and it offers additional protection to hirers.

Policy Objective 2: Fees payable by entertainers and models

Table D.2 Summary of Options for Policy Objective 2

Option	Summary
2a	to make no changes (do nothing).
2b	introduce a total ban on upfront fees for individuals seeking work in the entertainment and modelling sector.
2c	as option 2b but with an exemption that allows directories to charge clients upfront fees in the entertainment sector.
2d	to tighten existing regulations (combined with targeted awareness campaign) by amending to include: - Requirement to notify clients in writing about 7 day cooling off period & right to cancel; - Ban on taking of credit card impressions/post dated cheques; - Provision for refund if no publication produced or circulated; and - Explicit reference to assessment fees not being permissible.

[1] those that by reason of age or infirmity and require care and attention

Although there are legitimate directories operating within this sector for which up-front fees are an integral part of their business model, there is also evidence of continued abuse. The aim of the consultation was therefore to try and strike a balance.

Responses to the consultation and further discussion with stakeholders have made it clear than an outright ban on up-front fees (option 2b) would be unworkable, as it would stop a legitimate route to work for many in the acting and entertainment sector. Equally, tightening the regulations alone is unlikely to eliminate the abuse of up-front fees (option 2d), although it may reduce the problem to some extent.

The Government's preferred option is therefore to:

- Introduce a ban on up-front fees in those areas where there is most evidence of abuse (the model, walk-on and extras sectors)
- Retain their use for actors, production staff and other entertainers
- Tighten the Regulations to address concerns by extending the cooling off period to those areas where abuse is more prevalent (actors and performers)
- Develop a targeted awareness campaign

For the proposals on up-front fees, the key here will be clear and appropriate definitions and the Government will work with stakeholders to develop these.

Tightening of the Regulations will specifically involve the extension of the cooling-off period from 7 to 30 days for actors, singers, dancers and other performers. This may have some cost implications, but we feel that the benefits of tackling abuse outweigh the costs.

Policy Objective 3: Position of Postgraduate Medical Deaneries

Table D.3 Summary of Options for Policy Objective 3

Option	Summary
3a	to make no changes (do nothing).
3b	to exempt Postgraduate Medical Deaneries from the employment agency legislation.

Following the consultation and responses from the key stakeholders and subsequent meetings the Government intends to go ahead with its preferred option (3b) of exempting medical deaneries from the Conduct Regulations.

Policy Objective 4: Miscellaneous Regulation Changes

4.1: REGULATIONS 14, 16, 17: Obligations to agree terms with workers in case of permanent recruitment

Table D.4 Summary of Options for Policy Objective 4.1

Option	Summary
4.1a	To make no changes (do nothing).
4.1b	to removing the requirement to agree terms with work-seekers in respect of permanent candidates. Prior to submitting candidates to clients, terms must be agreed. This option proposes to remove these so that terms will instead be agreed when the work-seeker gets a job.

The Government proposes to proceed with option 4.1b as Regulation 14 served no real purpose as the hirer is the company who will have the ultimate contractual relationship with the worker. Regulation 17 was seen as superfluous as agencies and hirers would have their own contractual arrangements. Regulation 16 was deemed necessary to protect those that are charged upfront fees.

4.2: REGULATION 27: Advertisements

Table D.5 Summary of Options for Policy Objective 4.2

Option	Summary
4.2a	to make no changes (do nothing).
4.2b	to simplify advertising requirements by removing the obligation to specify whether the hirer is acting as an *employment agency* or *employment business*.

Responses to the consultation favoured "temporary" or "permanent" being used instead of the current terms.

The Government now proposes to replace the current terms that need to be stated, that is whether it is an "employment agency" or " employment business", with terms that are based on the type of vacancy. Therefore the terms "temporary" and "permanent" will now be used as these are far more likely to be understood by workers applying for these positions.

4.3: REGULATION 32: Application of the Regulations to work-seekers which are incorporated

Table D.6 Summary of Options for Policy Objective 4.3

Option	Summary
4.3a	to make no changes (do nothing).
4.3b	to repeal Regulation 32 in its entirety.
4.3c	to issue better guidance for workers so they do not agree to sign an opt-out without understanding what they are agreeing to
4.3d	to make it an offence to make the provision of work-finding services only available to those who are incorporated or are prepared to work through a composite company.
4.3e	to make opt-out not apply to certain key Regulations such as; Regulation 6 (restriction on detrimental action relating to work-seekers working elsewhere) and Regulation 10 (restriction on charges to hirers).

The consultation sought views and evidence on temporary workers employed through umbrella companies, specifically with regard to the risks faced by vulnerable workers who may unwittingly opt out of the protections afforded to them by the Conduct Regulations[2].

Subject to the evidence obtained, the Government was considering a number of possible measures to address the issue. These are summarised in table D6 above.

The consultation did not result in any significant evidence that vulnerable workers are suffering detriment in this area and so the Government does not propose, at this time, to take further action. However, the Government will continue to gather evidence and may conduct research to investigate the issue further. The Government will also improve the guidance for work-seekers, hirers and employment businesses around this area.

[2] The opt-out was intended to provide flexibility for highly skilled professional personnel in the IT and finance sectors that wanted to operate as limited companies due to tax advantages.

E. Costs and Benefits

As with the discussion of options above, this section focuses on the costs and benefits associated with the preferred Government options under each policy objective. The cost-benefit analysis for the now discarded options is reproduced in the annex to this IA.

For the majority of the policy options, the savings or costs arise due to a change in admin burdens. To estimate these increases or reductions in this IA, we have used the results from the interim report of Opinion Research Corporation (ORC) International's Employment Law Administrative Burden Measurement Research 2008[3]. Where ORC have not estimated the cost for an Information Obligation (IO), we have used data from the PricewaterhouseCoopers (PwC) 2005 admin burdens exercise.

Policy Objective 1: Checking Suitability for Permanent Recruitment
General Assumptions and Data

- The Recruitment and Employment Confederation's (REC) Annual Industry Turnover and Key Volumes Survey 2007/8 found that around 726,863 workers were placed into permanent employment via an agency.
- BIS's Survey of Recruitment Agencies (SORA) 2007 showed that there are around 1.5m temporary agency workers in the UK, and REC's census found that there are around 1.1m. We use a mid-figure between the 2 surveys of around 1.3m[4].
- SORA also estimates that there are around 16,000 agencies. In order to calculate the reduction or increase in admin burdens, we have to use this figure.

Option 1b – Remove suitability checks for employment agencies that introduce workers for permanent employment
Costs
Removing suitability checks for employment agencies would not incur a cost for the agency or the employer, as, by law, employers have to carry out their own suitability checks when they hire permanent workers from agencies.

Benefits
As agencies would no longer be required to carry out suitability checks, they should benefit from a decrease in admin burdens.

However, as indicated in section D above checks will remain for those working with people under 18 and other vulnerable groups. The evidence from discussions with key stakeholders including trade associations in this field suggests the offsetting impact here will be quite small. It is estimated that only around 10,000 workers would be affected (although this may increase over the coming years), as most recruitment in this sector is through employment businesses.

To estimate the reduction in admin burdens, we use PwC's 2005 admin burdens exercise estimates. The IO that corresponds to this regulation is IO 28512. The cost of this IO to an agency is around £120 (2005 prices). Apportioning this cost over the number of permanent workers[5] - minus those for whom checks will remain – would result in aggregate savings (from a decrease in admin burdens) of around £683k per year (£752k per year in 2009 prices[6]).

Policy Objective 2: Fees payable by entertainers and models
General Assumptions and Data

- Anecdotal evidence suggests that the upfront fee may be around £200.

[3] The final report, 'Employment Law Admin Burdens Survey 2008', was published in December 2008. http://www.berr.gov.uk/files/file49199.pdf
[4] See 'Agency Working in the UK: A Review of the Evidence', Employment Relations Research Series No.93, BIS, October 2008, http://www.berr.gov.uk/files/file48720.pdf
[5] (Cost of IO / Number of workers per agency) * Number of Workers Placed into Permanent Recruitment. Where: Number of Workers per Agency = (Permanent Workers + Temporary Workers) / Number of Agencies.
[6] Using Her Majesty's Treasury's (HMT) Gross Domestic Product (GDP) deflator figures.

- Anecdotal evidence suggests that around 10,000 people per year join these agencies. [7]
- Anecdotal evidence suggests that around 60% of the 10,000 people join these agencies to seek work in the entertainment sector.

(i) Ban on up-front fees for model, walk-on and extras sectors

Costs
The banning of upfront fees would impose a cost to modelling and entertainment agencies as they would still have to publish a portfolio for their worker, but would not be able to recover the cost of the publication. It is not possible to accurately estimate the costs of this policy in the absence of better data. However, using anecdotal evidence, it is estimated the aggregate cost of doing so across the sector would be around £2m per year (2009 prices).

However as the charging of up-front fees will only be banned for the model, walk-on and extras sectors the costs of this option would be smaller. Anecdotal evidence suggests that around 40% of the 10,000 people that join these agencies do so in order to seek work that is not in the entertainment sector. Furthermore of those who do seek work in the entertainment sector, we assume that half do so for modelling, walk-on and extras work. Therefore, the aggregate cost to agencies of this option would be around £600k per year (2009 prices).

Benefits
The banning of upfront fees in the model, walk-on and extras sectors would result in a saving for those seeking work in these areas. It is not possible to accurately estimate the benefits of this policy in the absence of better data, but, using anecdotal evidence, we estimate the aggregate benefit of this option would be around £600k per year (2009 prices).

(ii) Tightening the Regulations and Raising Awareness

Costs
Under this option, the agency would have to inform all new clients seeking work as actors, singers, dancers and other performers of the 30-day cooling off period in writing. PwC or ORC does not have a specific IO for this regulation. However, if we use PwC's IO 28345[8] as a proxy, the increase in admin burdens would be around £12 per individual. Therefore the aggregate cost would be around £37k per year (£41k per year 2009 prices)[9].

Given that under this proposal the agency would have to refund the fee should no publication materialise after a certain period, poses a possible cost for the agency and a cost to the individual. Costs for agencies would increase as it would have to refund the money that it owes the work-seeker. In addition, there would be costs to agencies of chasing up individuals for payment as they cannot take a post-dated cheque or credit/debit card impression. This option would also pose costs to the work seeker (individual), as they would have to chase up the agency to get their money back, if the agency fails to notify them of the refund. In the absence of better data it is difficult to estimate these costs.

Benefits
It is not possible to accurately estimate the benefits from this policy in the absence of better data. However, if we assume that for around 25% to 30% of the 10,000 people who join these agencies no publication materialises, then the benefit from a refund would amount to around £500k to £600k per year (2009 prices).

Policy Objective 3: Position of Postgraduate Medical Deaneries
Option 3b – Change position of Postgraduate Medical Deaneries
Costs

[7] These figures were used in the 2007 IA on Protecting Vulnerable Agency Workers. We are assuming that these numbers have not changed by a great amount.
[8] Giving notice to the work-seeker of arrangements to pay fares or offer free travel for the work-seeker's journey to the place of work including details of free travel or payment of fares, including any conditions on which they are offered.
[9] Calculated as 10,000 x 60% (entertainers) x 50% (excluding those for whom up front fees are banned) x £12.29 (2005 prices)

Under this option Postgraduate Medical Deaneries will not fall under the Employment Agency Act. We estimate that there would be no costs involved as Deaneries were not considered as employment agencies prior to the 2006 NHS re-organisation and changing them back to their pre-2006 status would have no impact.

Benefits
The benefit of this option would be that Deaneries would no longer be classified as employment agencies. In addition, there are no risks for Deaneries of having to comply with employment agency regulations.

By maintaining the Deaneries in scope there is potential for disruption to the recruitment and training arrangements for junior doctors with a subsequent impact on both costs and staffing for the NHS. These costs have not been quantified here.

Policy Objective 4: Miscellaneous Regulation Changes
General Assumptions and Data

- Data from ASHE 2008 shows that the average pay of a labour recruiter is around £11 per hour. Assuming a 21% mark-up to include non-wage costs, total hourly pay would be around £13 per hour.
- REC's survey found that around 726,863 workers were placed into permanent employment via an agency in 2007/08.
- SORA showed that there are around 1.5m temporary agency workers in the UK, and REC's census found that there are around 1.1m. We use a mid figure between the 2 surveys of around 1.3m.
- SORA also estimates that there are around 16,000 agencies. In order to calculate the reduction or increase in admin burdens, we have to use this figure.

REGULATION 14, 16, 17: Requirements to agree terms with work-seekers and hirers

Costs
Removing the requirement to agree terms with work-seekers in respect of permanent candidates would not pose any costs.

Benefits
To estimate the reduction in admin burdens for this option, we use ORC's interim results for IO 28282. The cost of this IO to an agency is around £14 (2009 prices). Apportioning this cost over the number of permanent workers, the aggregate savings (from a decrease in admin burdens) would be around £83k per year (2009 prices).

REGULATION 27: *Requirements when placing advertisements*

The Government has decided to replace the terms "employment agency" and "employment business" with "temporary" and "permanent" respectively. This is designed to improve clarity by using terms that are more likely to be understood by workers when applying for these positions.

The options costed in the consultation stage impact assessment were based on the removal of any requirement to state these terms. Therefore the cost savings identified then will now not occur.

REGULATION 32: Temporary workers employed through umbrella organisations

As stated in section D above, in the absence of evidence that Regulation 32 poses a specific risk to vulnerable workers, the Government is not proposing any changes at this time. There are currently no cost-benefit implications at this stage.

F. Risks

Policy Objective 1: Checking Suitability for Permanent Recruitment

No risks could be identified with respect to Options 1b as the suitability checks ought to be carried out by the employer, as they are required to do so by law.

Policy Objective 2: Fees payable by entertainers and models
With Option 2b, there is the risk that certain modelling, extras and walk-on agencies might not be able to recoup the cost of financing the publication of a portfolio purely from commission charged on work found.

There is the risk that with a 30 day cooling off period you may get more consumers using these services and then withdrawing from them prior to the 30 day period in order to get a “free trial”.

Policy Objective 3: Position of Postgraduate Medical Deaneries
There are no risks involved under Option 3b.

Policy Objective 4: Miscellaneous Regulation Changes
REGULATION 14, 16, 17
Under Option 4.1b there is the risk that the work-seeker would be unaware of the terms that it has with the agency.

REGULATION 27
Under Option 4.3b there is the risk that the work-seeker would not be aware if the hirer is an employment agency or employment business.

REGULATION 32
The risk of the options proposed for Regulation 32 is that the umbrella company that an employment business uses could see a fall in demand and some could potentially shut down. As the majority of umbrella companies use umbrella companies for reducing payroll costs this risk is small.

G. Enforcement

The Employment Agency Inspectorate (EAI) would enforce the policy changes for the options proposed in Policy Objectives 1, 2 and 4. The exemption of Postgraduate Medical Deaneries from the Employment Agency Act will result in enforcement by the Department of Health.

H. Summary and Recommendations

The table below outlines the costs and benefits of the changes resulting from the Government's preferred options.

Table H.1 Costs and Benefits by Policy Objective

Option	Cost	Benefit
Objective 1: Checking Suitability for Permanent Recruitment	**None**	**£752k/year for agencies**
Objective 2: Fees payable by entertainers and models	**£641k/year for agencies and hirers**	**£1.1m-£1.2m for work-seekers**
Ban on up-front fees for model, walk-on and extras sectors	£600k/year for agencies and hirers	£600k/year for work-seekers
Tightening Regulations and Raising Awareness	£41k/year for agencies, plus • Cost to agency of chasing up payment (not quantified) • Cost to agency of providing a refund (not quantified) • Cost to individual of chasing refund (not quantified)	£500k - £600k/year for work-seeker
Objective 3: Position of Postgraduate Medical Deaneries	None	Corrects the anomaly that placed Deaneries under the Employment Agencies Act (not quantified) **Removes risk for Deaneries of having to comply with employment agency regulations.** (not quantified)
Objective 4: Miscellaneous Regulation Changes	**None**	**£83k/year for agencies**
Requirements to agree terms with work-seekers and hirers	None	£83k/year for agencies
Requirements when placing advertisements	None	None
Temporary workers employed through umbrella organisations	None	None
Total Quantifiable Costs & Benefits *(sum of Objectives 1-4)*	**£641k**	**£1.9m - £2.0m**
of which: Work-seekers	none	£1.1m - £1.2m
of which: Agencies and/or hirers	£641k	£835k

Source: BIS, ASHE, REC, PwC

I. Implementation

The Government plans to implement these changes in October 2010. The exemption on Deaneries may occur before this date.

J. Monitoring and Evaluation

The effectiveness of the new regime would be monitored by the Employment Agency Inspectorate , who monitor and review the Regulations and complaints received on these issues on an ongoing basis.

Specific Impact Tests: Checklist

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Annexes

A1. Specific Impact Assessments

Competition Assessment

The initial analysis of the competition filter is that a detailed competition assessment is not considered necessary (see table A1 below).

Table A1. Competition assessment.

Question: *In any affected market, would the proposal..*	Answer By Policy Objective			
	1	2	3	4
..directly limit the number or range of suppliers?	No	No	No	No
..indirectly limit the number or range of suppliers?	No	No	No	No
..limit the ability of suppliers to compete?	No	No	No	No
..reduce suppliers' incentives to compete vigorously?	No	No	No	No

Source: BIS

The proposal to ban upfront fees (policy objective 2) for some sectors of the entertainment industry could limit the ability of suppliers to compete. The removal of the upfront fee could be more burdensome to some existing firms than others, as some agencies would not be able to recoup this cost by other means.

Small Firms Impact Test

Policy Objective 1: Checking Suitability for Permanent Recruitment
SORA showed that there are around 16,000 agencies across the UK and less than 1% of these employ more than 200 people[10]. Therefore given that the majority of agencies are SMEs, the proposals are likely to have a greater impact on smaller firms. However, the impact would not be judged to be disproportionate as all agencies would have to comply with the measures stated above.

Policy Objective 2: Fees payable by entertainers and models
The measures discussed above are likely to have a greater impact on smaller firms as these dominate the agency sector. However, the impact would not be judged to be disproportionate as all agencies would have to comply with the proposals.

Policy Objective 3: Position of Postgraduate Medical Deaneries
No Impact.

Policy Objective 4: Miscellaneous Regulation Changes
As the Government is not at this stage making significant changes in this area the financial impact is estimated to be relatively small overall and as such we do not envisage any impact on small businesses.

Equality Impact Assessment

Policy Objective 1: Checking Suitability for Permanent Recruitment
The proposed change to the Regulation should apply equally to all groups. Without a better set of data it is not possible to accurately breakdown the number of workers that were put into permanent

[10] See Chart 1 of Agency Working in the UK: A Review of the Evidence, Employment Relations Research Series No.93, BIS, October 2008, http://www.berr.gov.uk/files/file48720.pdf

employment via an agency by sex, race or disability. However, the removal of requirements in this area would not disproportionately affect any group over another as they would still be covered by the sex, race and disability discrimination act.

Policy Objective 2: Fees payable by entertainers and models

The proposed change to the Regulation should apply equally to all groups. Without a better set of data it is not possible to accurately breakdown the number of workers that are employed through a modelling or entertainment agency. However, the banning of upfront fees for some entertainers would not disproportionately affect any group over another as they would still be covered by the sex, race and disability discrimination act.

Policy Objective 3: Position of Postgraduate Medical Deaneries

No Impact.

Policy Objective 4: Miscellaneous Regulation Changes

As the Government is not at this stage making significant changes in this area we do not consider any groups to be disproportionately affected.

Table A2. Temporary Agency Workers in the UK

	(%)
Women	58
Ethnic Group	31
Of which:	
Asian	4
Black Caribbean	3
Black African	5
Other, including Eastern European	19

Source: REC

A2. Options presented in the consultation stage impact assessment

This annex reproduces the complete description of the options presented in the 2009 consultation.

Discussion of Options

Policy Objective 1: Checking Suitability for Permanent Recruitment
Option 1a is to make no changes (do nothing).

Option 1b Amend Regulations 19 (a) & (b) and Regulation 22 in order to remove the requirement for employment agencies (who introduce workers for permanent employment) to undertake suitability checks.

Regulations 19 (a) & (b): Remove the need for employment agencies to carry out checks on the identity of the work-seeker or any checks that the work-seeker has the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which are required by law or by any professional body, to work in the position which the hirer seeks to fill.

Regulation 22: When supplying a work-seeker that will be involved with vulnerable workers then no need to provide:

1. Copies of the qualifications and authorisations,
2. Two references, and
3. Take other steps to ensure that the work-seeker is not unsuitable.

Option 1c is to do the same as Option 1b, plus consult on whether Regulation 20 (5) & (6), (which require an agency to inform the hirer if they receive or obtain information that the worker is unsuitable) is necessary and/or whether there is any benefit in shortening the current 3 month period (after which the obligation lapses).

Policy Objective 2: Fees payable by entertainers and models
Option 2a is to make no changes (do nothing).

Option 2b involves a total ban on upfront fees for individuals seeking work in the entertainment and modelling sector.

Option 2c is the same as option 2b but with an exemption that allows directories to charge clients upfront fees in the entertainment sector.

Option 2d proposes to tighten existing regulations (combined with targeted awareness campaign) by amending to include:
- Requirement to notify clients in writing about 7 day cooling off period & right to cancel;
- Ban on taking of credit card impressions/post dated cheques;
- Provision for refund if no publication produced or circulated; and
- Explicit reference to assessment fees not being permissible.

Policy Objective 3: Position of Postgraduate Medical Deaneries
Option 3a is to make no changes (do nothing).

Option 3b proposes to exempt Postgraduate Medical Deaneries from the employment agency legislation.

Policy Objective 4: Miscellaneous Regulation Changes
REGULATIONS 14, 16, 17: Obligations to agree terms with workers in case of permanent recruitment
Option 4.1a is to make no changes (do nothing).

Option 4.1b involves removing the requirement to agree terms with work-seekers in respect of permanent candidates. Prior to submitting candidates to clients, terms must be agreed. This

option proposes to remove these so that terms will instead be agreed when the work-seeker gets a job.

REGULATION 27: Advertisements
Option 4.2a is to make no changes (do nothing).

Option 4.2b is to simplify advertising requirements by removing the obligation to specify whether the hirer is acting as an employment agency or employment business.

REGULATION 32: Application of the Regulations to work-seekers which are incorporated
Option 4.3a is to make no changes (do nothing).

Option 4.3b involves repealing Regulation 32 in its entirety.

Option 4.3c is to issue better guidance for workers so they do not agree to sign an opt-out without understanding what they are agreeing to.

Option 4.3d is to make it an offence to make the provision of work-finding services only available to those who are incorporated or are prepared to work through a composite company.

Option 4.3e is to make opt-out not apply to certain key Regulations such as; Regulation 6 (restriction on detrimental action relating to work-seekers working elsewhere) and Regulation 10 (restriction on charges to hirers).

Costs and Benefits

For the majority of the policy options, the savings or costs arise due to a change in admin burdens. To estimate these increases or reductions in this IA, we shall be using Opinion Research Corporation (ORC) International's Employment Law Administrative Burden Measurement Research 2008 interim results[11]. Where ORC have not estimated the cost for an IO, we will use PricewaterhouseCoopers (PwC) 2005 admin burdens exercise.

Policy Objective 1: Checking Suitability for Permanent Recruitment
General Assumptions and Data
- PwC's 2005 admin burdens exercise estimates that there are around 15,000 agencies. In order to calculate the reduction or increase in admin burdens, we have to use this figure.
- The Recruitment and Employment Confederation's (REC) Annual Industry Turnover and Key Volumes Survey 2007/8 found that around 726,863 workers were placed into permanent employment via an agency.
- BERR's Survey of Recruitment Agencies (SORA) 2007 showed that there are around 1.5m temporary agency workers in the UK, and REC's survey found that there are around 1.2m. We use a mid-figure between the 2 surveys of around 1.35m.

Option 1b – Remove suitability checks for employment agencies who introduce workers for permanent employment
Costs
Removing suitability checks for employment agencies would not incur a cost for the agency or the employer. This is because, by law, employers have to carry out their own suitability checks when they hire permanent workers from agencies.

Benefits
As agencies would no longer be required to carry out suitability checks, they should benefit from a decrease in admin burdens.

To estimate the reduction in admin burdens, we use PwC's 2005 admin burdens exercise estimates. The IO that corresponds to this regulation is IO 28512. The cost of this IO to an agency is around £120 (2005 prices). Apportioning this cost over the number of permanent workers[12], the

[11] The Final IA will be published containing the definitive estimates.
[12] (Cost of IO / Number of workers per agency) * Number of Workers Placed into Permanent Recruitment. Where:

aggregate savings (from a decrease in admin burdens) would be around £631k per year (£681k per year for 2008 prices[13]).

Option 1c – Same as Option 1b, plus reducing the 3 month period in which the agency has to inform the hirer if new information arises about the worker

Costs

As stated in Option 1b, there would be no costs involved from removing the requirement for the agency to carry out suitability checks on workers being placed into permanent employment. In addition, reducing the 3 month period shouldn't increase costs as if the employer does its own checks (which it has to by law), then it should be informed of any changes in circumstances from whomever they contacted to get the information about the worker.

Benefits

This option would have the same benefits as option 1b.

In addition, the PwC admin burdens exercise estimates that the cost of Regulation 20(5) & (6) (IO 28315) is around £44 per work-seeker (2005 prices). Anecdotal evidence suggests that a small number of hirers receive new information about a worker. Therefore, if under the assumption that for around 1% of the 727k permanent workers, the agency gets information that they are unsuitable, and for illustration purposes we further assume that around half of these cases would not arise due to a shorter period, the aggregate saving (from a decrease in admin burdens) would be around £161k per year (£173k per year for 2008 prices).

Therefore the aggregate benefit (which includes the benefits from Option 1b) of this option would be around £791k per year (£854k per year for 2008 prices).

Policy Objective 2: Fees payable by entertainers and models

General Assumptions and Data

- Anecdotal evidence suggests that the upfront fee may be around £200.
- Anecdotal evidence suggests that around 10,000 people per year join these agencies. [14]
- Anecdotal evidence suggests that around 60% of the 10,000 people join these agencies to seek work in the entertainment sector.

Option 2b – Total ban on upfront fees

Costs

The banning of upfront fees would impose a cost to modelling and entertainment agencies as they would still have to publish a portfolio for their worker, but would not be able to recover the cost of the publication. It is not possible to accurately estimate the costs of this policy in the absence of better data. However, using anecdotal evidence, the aggregate cost of this option would be around £2m per year (2008 prices).

Benefits

The banning of upfront fees would result in a saving for models and entertainers seeking work. Therefore, the aggregate benefit would be around £2m per year (2008 prices).

Option 2c – Same as option 2b but with an exemption that allows directories to charge clients upfront fees in the entertainment sector

Costs

The costs of this option would be similar to those in option 2b, but smaller as directories in the entertainment sector would be able to charge upfront fees. It is not possible to accurately estimate the costs of this policy in the absence of better data. However, anecdotal evidence suggests that around 40% of the 10,000 people that join these agencies do so in order to seek work that is not in the entertainment sector. Therefore, the aggregate cost to agencies of this option would be around £800k per year (2008 prices).

Number of Workers per Agency = (Permanent Workers + Temporary Workers) / Number of Agencies.

[13] Using Her Majesty's Treasury's (HMT) Gross Domestic Product (GDP) deflator figures.

[14] These figures were used in the 2007 IA on Protecting Vulnerable Agency Workers. We are assuming that these numbers have not changed by a great amount.

Benefits
The benefits of this option would be similar to those in option 2b, but smaller as directories in the entertainment sector would be able to charge upfront fees. It is not possible to accurately estimate the benefits of this policy in the absence of better data. However, using anecdotal evidence, the aggregate benefit of this option would be around £800k per year (2008 prices).

Option 2d – Invest in raising awareness of 7 day cooling off period, providing a refund should no publication materialise & ban the taking of post-dated cheques or credit/debit card impressions
Costs
Under this option, the agency would have to inform all new clients of the 7-day cooling off period in writing. PwC or ORC does not have a specific IO for this regulation. However, if we use PwC's IO 28345[15] as a proxy, the increase in admin burdens would be around £12 per individual. Therefore the aggregate cost would be around £123k per year (£133k per year 2008 prices).

Given that under this proposal the agency would have to refund the fee should no publication materialise after a certain period, poses a possible cost for the agency and a cost to the individual. Costs for agencies would increase as it would have to refund the money that it owes the work-seeker. In addition, there would be costs to agencies of chasing up individuals for payment as they cannot take a post-dated cheque or credit/debit card impression. This option would also pose costs to the work seeker (individual), as they would have to chase up the agency to get their money back, if the agency fails to notify them of the refund. In the absence of better data it is difficult to estimate these costs.

Benefits
It is not possible to accurately estimate the benefits from this policy in the absence of better data. However, if we assume that for around 25% to 30% of the 10,000 people who join these agencies no publication materialises, then the benefit from a refund would amount to around £375k to £450k per year (2008 prices).

Policy Objective 3: Position of Postgraduate Medical Deaneries
Option 3b – Change position of Postgraduate Medical Deaneries
Costs
Under this option Postgraduate Medical Deaneries will not fall under the Employment Agency Act. We estimate that there would be no costs involved as Deaneries were not considered as employment agencies prior to the 2006 NHS re-organisation and changing them back to their pre-2006 status would have no impact.

Benefits
The benefit of this option would be that Deaneries would no longer be classified as employment agencies. In addition, there are no risks for Deaneries of having to comply with employment agency regulations.

Policy Objective 4: Miscellaneous Regulation Changes
General Assumptions and Data
- Data from ASHE 2008 shows that the average pay of a labour recruiter is around £11 per hour. Assuming a 21% mark-up to include non-wage costs, total hourly pay would be around £13 per hour.
- PwC's 2005 admin burdens exercise estimates that there are around 15,000 agencies. In order to calculate the reduction or increase in admin burdens, we have to use this figure.
- REC's survey found that around 726,863 workers were placed into permanent employment via an agency in 2007/08.
- SORA showed that there are around 1.5m temporary agency workers in the UK, and REC's survey found that there are around 1.2m. We use a mid figure between the 2 surveys of around 1.35m.

[15] Giving notice to the work-seeker of arrangements to pay fares or offer free travel for the work-seeker's journey to the place of work including details of free travel or payment of fares, including any conditions on which they are offered.

REGULATION 14, 16, 17

Option 4.1b – Remove the requirement to agree terms with work-seekers in respect of permanent candidates. Terms will instead be agreed when the work-seeker gets a job

Costs

Removing the requirement to agree terms with work-seekers in respect of permanent candidates would not pose any costs.

Benefits

To estimate the reduction in admin burdens for this option, we use ORC's interim results for IO 28282. The cost of this IO to an agency is around £14 (2008 prices). Apportioning this cost over the number of permanent workers, the aggregate savings (from a decrease in admin burdens) would be around £75k per year (2008 prices).

REGULATION 27

Option 4.2b – Remove the obligation to specify whether the hirer is acting as an employment agency or employment business

Costs

The cost of this option would be that the work seeker will not know if the hirer is an employment agency or an employment business. However, the impact would be small as anecdotal evidence suggests that most individuals do not know the difference between an employment agency and employment business.

Benefits

Employment agency and employment business would save some money from not printing its status as an agency or business. The PwC admin burdens exercise estimates that the cost of Regulation 27 (IO 2029) is around £12 per agency. However this IO also includes that the advert must state the full name of the agency/employment business. We assume that by taking out the requirement to state whether the hirer is acting as an agency or employment business, costs could fall by 50%. Consequently, each agency should save around £6 per year. Therefore, the aggregate reduction in admin burdens would be around £92k per year (£100k per year 2008 prices).

REGULATION 32

Option 4.3b Repeal Regulation 32 in its entirety

Costs

There would be no costs involved in repealing Regulation 32.

Benefits

The PwC admin burdens exercise estimates that the cost of Regulation 32 (IO 28393) is around £32 per number of businesses receiving work seekers from employment agencies. In 2005, there were around 540k businesses that received workers in this manner, if we assume that this figure hasn't changed by a great amount then the savings from repealing Regulation 32 would amount to around £12.9m per year in 2005 prices (£13.9m per year in 2008 prices).

In addition the benefit would be that it would not leave workers vulnerable to non-payment, and the employer would be able to transfer the worker from being on a temporary contract to a permanent contract. Without better data, it is difficult to estimate these benefits.

Option 4.3c - Issue better guidance for workers

Costs

The PwC admin burdens exercise does not have a specific IO for this regulation and we were unable to find a relevant proxy. However, this option would result in an increase of admin burdens for agencies as they would have to issue better guidance for work seekers. If we assume that of the 1.35m agency workers, around 40% (540k) are employed through an umbrella company and it takes 30 minutes to 1 hour for the agency staff to explain the opt-out, then the cost to the agency would be around £6.50 to £13 per worker. The aggregate cost would be around £3.5m to £7m per year (2008 prices).

Benefits

In the absence of better data it is difficult to estimate the benefit of this option. However, the benefit would be that the worker would be better informed about what the opt-out involves. Therefore it would not leave the worker vulnerable to non-payment.

Option 4.3d - Make it an offence to make the provision of work-finding services only available to those who are incorporated or are prepared to work through a composite company

Costs

There would be no costs involved in making it an offence to make the provision of work-finding services only available to those who are incorporated or are prepared to work through a composite company.

Benefits

In the absence of better data it is difficult to estimate the benefit of this option. However, the benefit would be that it would not leave workers vulnerable to non-payment, as they would not be forced to opt-out of certain regulations.

Option 4.3e - Make opt-out not apply to certain key Regulations, such as Regulation 6 (restriction on detrimental action relating to work-seekers working elsewhere) and Regulation 10 (restriction on charges to hirers)

Costs

There are no costs involved with this option.

Benefits

The benefits of having these restrictions in place are that it would protect workers from non-payment, as they would not be forced to opt-out of certain regulations and give the hirer the option to make the worker a permanent employee.