Draft Regulations laid before Parliament under section 12(5) of the Employment Agencies Act 1973 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No. 0000

EMPLOYMENT AGENCIES, ETC.

The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2014

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State, having consulted such bodies as appear to the Secretary of State representative of the interests concerned(**a**), makes the following Regulations, in exercise of powers conferred by sections 5(1) and 12(3) of the Employment Agencies Act 1973(**b**).

A draft of these Regulations was laid before Parliament in accordance with section 12(5) of the Employment Agencies Act 1973(**c**) and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2014 and shall come into force at the end of the period of 21 days beginning with the day on which they are made.

Amendment to the Conduct of Employment Agencies and Employment Businesses Regulations 2003

2. After regulation 27 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003(**d**) insert—

"Advertising in other EEA states

27A.—(1) An agency or employment business must not advertise a GB vacancy in an EEA state other than the United Kingdom unless—

(a) it advertises the vacancy in English in Great Britain at the same time as it advertises the vacancy in the other EEA state; or

(b) it has advertised the vacancy in English in Great Britain in the period of 28 days ending with the day on which it advertises the vacancy in the other EEA state.

(**a**) Section 12(2) of the Employment Agencies Act 1973 requires the Secretary of State to consult with representative bodies before making Regulations under that Act.

(**b**) 1973 c.35; section 5(1) was amended by the Employment Relations Act 1999 (c.26), section 31 and Schedule 7, paragraphs 1 and 2.

(**c**) Section 12(5) was amended by the Employment Relations Act 1999 (c.26), section 31 and Schedule 7, paragraphs 1 and 6.

(**d**) S.I. 2003/3319; relevant amending instruments are S.I. 2007/3575, 2010/1782.

(2) Paragraph (1) does not apply if the GB vacancy is for a worker to act solely for, and under the control of, the agency or employment business itself.

(3) It is a defence in any proceedings under—

(a) section 5(2) of the Act(**a**), or

(b) regulation 30,

in respect of a contravention of paragraph (1) that the agency or employment business believes, on reasonable grounds, that advertising the GB vacancy in English in Great Britain would be disproportionate having regard to the likelihood that such advertising would result in an application from a person with the skills required to fill the vacancy.

(4) For the purposes of this regulation—

(a) references to advertising include causing to be advertised,

(b) advertising on a website is taken to be advertising in all places from which the website can be accessed,

(c) "a GB vacancy" means a vacant position the duties of which are ordinarily to be performed in Great Britain."

Name
Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
Date Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 creates a new requirement that affects how vacancies for jobs in Great Britain are advertised. Employment agencies and employment businesses that wish to advertise such vacancies elsewhere in the EEA will also have to advertise them in English in Great Britain unless they believe, on reasonable grounds, that doing so would be disproportionate. Breach of the new requirement will constitute a criminal offence (under section 5 of the Employment Agencies Act 1973) and may also give rise to an action in damages. Another possible sanction is that the Secretary of State may invoke section 3A of the Employment Agencies Act 1973 (which provides for the Employment Tribunal, on application by the Secretary of State, to make an order prohibiting an individual or individuals from running or being involved in the running of an employment agency or employment business for up to 10 years).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

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(**a**) Section 5(2) was amended by the Employment Act 2008 (c.24) , section 15.

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