

Press Notice

Title:	New Safeguards Will Protect Agency Workers And Vulnerable People And Revise Out-Dated Provisions		
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Lead Minister	Gerry Sutcliffe	Date of Issue:	27/11/2003

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NEW SAFEGUARDS WILL PROTECT AGENCY WORKERS AND VULNERABLE PEOPLE AND REVISE OUT-DATED PROVISIONS

New safeguards requiring employment agencies to vet temps who work with vulnerable groups were announced by Employment Relations Minister Gerry Sutcliffe today.

At the same time, out-dated bureaucratic burdens will be lifted from agencies.

Agencies supplying temps to work with children, the elderly and the infirm will be required to carry out additional checks – including obtaining copies of relevant qualifications, two references, and a responsibility to take all reasonable steps to confirm that an individual is not unsuitable.

If new, adverse information comes to light, they will have to withdraw the temporary worker or inform the employer if the worker has been supplied on a permanent basis.

The move is part of a series of measures being introduced to update the regulation of employment agencies. They will come into force next April and will affect more than half a million people working through 17,000 agencies and employment businesses across Great Britain.

The measures also include:

- agencies placing actors, models and extras no longer being allowed to charge upfront fees before they find them work;
- employment businesses no longer being able to withhold workers' pay purely because they cannot produce an authenticated timesheet;
- agencies having to obtain information on any health and safety risks known to the hirer and the steps taken to prevent or control those risks;
- limits on provisions that prevent temporary workers from taking up permanent jobs with hiring companies unless a fee (known as a 'temp to perm' fee) is first paid to the agency; and
- provisions to allow limited company contractors, who are often highly paid and highly skilled, to opt out of being covered by the regulations but which prevent vulnerable workers being forced to do so.

Gerry Sutcliffe said:

"These safeguards will help ensure that vulnerable groups are looked after by suitable people.

"They'll also mean that unscrupulous entertainment and model agencies can't charge young hopefuls a fee where they have no work to offer.

"In the future, everyone who uses the services provided by agencies and employment businesses can have greater confidence in them – both those companies that use them to supply staff as well as the agency workers themselves.

"Employment agencies play a valuable part in helping people to find their feet in the world of work, whether after a period of absence or unemployment or helping young people to take their first steps on the career ladder. The vast majority of agencies are well run but we are ensuring that they do not face unfair competition from those who abuse their workers."

The rules will be enforced by the DTI's Employment Agency Standards Inspectorate, which currently receives around 10,000 enquiries a year through its telephone helpline. The DTI made 950 inspections last year and recovered over £22,000 of workers' wages

that were illegally withheld and could not have been recovered by other means. The maximum penalty for breaking the regulations is a £5,000 fine for each offence and a maximum ban of 10 years.

Anyone with a complaint or query about an employment agency or about the law applying to agencies should contact the Employment Agency Standards Action Line. The number is 0845 955 5105 (all calls at local rates).

Notes to Editors

1. The revised Conduct of Employment Agencies and Employment Businesses Regulations come into force on 6 April 2004 and are available at <http://www.hmso/legislation/whatsnew.htm>
2. Full guidance on the regulations is being prepared in collaboration with the Recruitment and Employment Confederation – the main industry trade association - and the DTI aims to work with the industry and with trade unions to ensure the guidance is both as clear and straightforward as possible and is distributed throughout the industry, well before the regulations come into force. The DTI is also planning to participate in a range of awareness-raising activities to ensure agencies, workers and hirers are made fully aware of the new requirements.
3. The Government is still considering the case put by certain on-line recruiters last year on the regulations suggesting they should be exempted from the provisions of the Regulations. The Government plans to respond to the new issues raised by this case by the summer of 2004.
4. Provisions on 'temp to perm fees' under the regulations:

Before a posting with a company starts, companies, agencies and workers are free to reach agreement on the terms governing fees or the length of assignment that best suit their own wishes and circumstances.

Only if terms are not agreed at the start of a posting, the regulation imposes a minimum (8) and a maximum (up to 14) number of weeks quarantine that must pass before workers are free to take up a permanent post at a company without that company having to pay a fee to the agency.

For Example

Posting lasts 1 day and 6 days - quarantine period of 13 weeks

Posting lasts 1 week - quarantine period of 13 weeks

Posting lasts 3 weeks - quarantine period of 11 weeks

Posting lasts 5 weeks - quarantine period of 9 weeks

Posting lasts 6 weeks+ - quarantine period of 8 weeks

The regulations clarify for all parties - workers, agencies and employing companies - the issue of how long it is reasonable to expect workers to wait once they have left a company before they can take up permanent employment with that company without that company having to pay a fee to the agency.

5. Provisions on charging upfront fees include special provisions for entertainment and model agencies that produce a publication that includes work seekers details.

6. Recent DTI prosecutions include:

An employment agent who took money from job hunters but failed to find them any work was banned from operating for 10 years - the maximum possible ban. Adrian Michael Farmer, who ran three internet-based recruitment agencies, attracted job hunters with promises of opportunities for work overseas and on cruise ships. Recruits were told they had to pay a membership fee to receive details of the jobs, but as soon as they paid up, Mr Farmer stopped all contact. The DTI's Employment Agency Standards Inspectorate took action following complaints from people who had lost money without finding any work. The DTI's Inspectorate presented their case at Cardiff Employment Tribunal on 6 November. The Tribunal heard that the police prosecuted Mr Farmer in 2001 using evidence collected by the DTI. He was sentenced then to 12 months in prison after pleading guilty to five charges of deception at Swansea Crown Court.

An employment agent who provided extras for programmes including Eastenders and Casualty was banned from running an agency for the maximum term of 10 years. Malcolm Eric Finnimore, who ran 'Riviera Artistes' of Torquay, Devon, pocketed money he received on behalf of actors for their work in television and film productions. Southampton Employment Tribunal banned him following proceedings taken by the Department of Trade and Industry's Employment Agency Standards Inspectorate. The Tribunal heard that Mr Finnimore had been prosecuted on three separate occasions by the DTI for failing to pass money owed to actors and extras. He also failed to comply with a County Court order totaling £7,520 in respect of money he had received on behalf of workers. The case was heard and the Tribunal's decision delivered at Southampton Employment Tribunal on Friday 19 September 2003.

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