



Supply Teachers

THE CONDUCT OF EMPLOYMENT AGENCIES AND EMPLOYMENT BUSINESSES (AMENDMENT) REGULATIONS 2019

From 6 April 2020, recruitment agencies who provide temporary agency workers, such as supply teachers, will be legally obliged to provide a 'Key Information Document' ('KID'). This is intended to help agency workers make informed decisions by improving the transparency of information provided to agency workers regarding pay, benefits, costs, deductions and fees.

Regulations 14 and 15 of The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2019 already contain a legal requirement to provide key information about assignments to agency workers, such as supply teachers (i.e. rates of pay). However, Regulation 13A, mandating the KID, goes further by expecting employment agencies to provide significant additional information to agency workers.

This must be provided to agency workers in one, succinct, written document (maximum two sides of A4 paper) that is easy to read. If appropriate, reference can be made to other documents where further relevant information can be found.

The KID must be provided to an agency worker before an agreement is reached on terms and conditions and a contract is issued with the recruitment agency.

The regulations will require employment agencies to provide each agency worker with:

- ◆ contact details of an enforcement officer at the Employment Agency Standards (EAS) Inspectorate to report concerns;
- ◆ details about how the agency worker is employed and who is employing them;
- ◆ details of the organisation responsible for paying the agency worker;
- ◆ any fees to be deducted for services and the method for calculating the amount to be deducted from the agency worker's pay;
- ◆ any entitlement to annual holidays and associated holiday pay; and
- ◆ a draft payslip to give agency workers a real-life illustration of the pay that the agency estimates the agency worker can expect to receive.

A significant amount of the information outlined above is to be provided in a 'representative example statement', including gross pay and net pay, any deductions required by law (e.g. the apprenticeship levy and National Insurance Contributions), and any other deductions, including how they have been calculated. This is designed to give agency workers an illustration of the pay they can expect to receive.

The KID should provide clarity where a recruitment agency uses an umbrella company as a payroll service, as the name of the umbrella company must be included in the KID, in addition to any administration fees charged by umbrella companies which are deducted from an agency worker's pay. For any non-statutory deductions or fees, the KID must either state the amounts to be deducted or explain how the deductions are calculated.

An agency worker should be able to see all the deductions to an umbrella company, and be able to fully understand the difference between the amount paid by the recruitment agency to the umbrella company and the final amount that the agency worker receives.

Agency workers that are employed by, supplied by or paid by umbrella companies will now know who their employer is, who will be responsible for paying them and the rate of pay they are likely to receive. Recruitment agencies will be obliged to obtain this information and provide it to the agency worker.

Recruitment agencies will have to provide transparency in respect of any and all umbrella companies used, so that agency workers can make an informed choice on which one to use (if not offered PAYE), based on the rate of pay and any associated benefits.

A possible consequence of the introduction of the KID is that recruitment agencies will find it harder to sell umbrella companies to an agency worker for which a fee is charged, unless it is clear that the agency worker stands to increase their rate of pay through an umbrella company ('umbrella uplift') in comparison to the rate of pay received through the recruitment agency.

The EAS Inspectorate will enforce the new requirement, which comes in at the same time as changes to the rules around written statements. Recruitment agencies will be obliged to keep records relating to any finalised KID and provide a revised KID as and when the information contained within them changes (e.g. an agency worker's right to equal pay under the Agency Workers Regulations).

The regulations do not apply to agency workers on existing terms with a recruitment agency, but the NASUWT recommends that supply teachers who are currently working as agency workers should request a KID from the recruitment agencies they are registered with.

Further legal context

Agency workers continue to have various additional rights under existing legislation: The Agency Workers Regulations 2010: guidance for recruiters; the Working Time Regulations; and discrimination law under the Equality Act 2010.

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