



Private Employment Agents Act 2005

Private Employment Agents (Code of Conduct) Regulation 2015

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Queensland

Private Employment Agents (Code of Conduct) Regulation 2015

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Private Employment Agents (Code of Conduct) Regulation 2015

1 Short title

This regulation may be cited as the *Private Employment Agents (Code of Conduct) Regulation 2015*.

2 Commencement

This regulation commences on 1 September 2015.

3 Code of conduct

The code of conduct in schedule 1 is the code of conduct about private employment agents prescribed for section 6 of the Act.

4 Declared provisions for Act, pt 6

Sections 14 to 23, 26, 29 and 32 of the code of conduct are declared to be provisions to which part 6 of the Act applies.

5 Approval of forms

The chief executive may approve forms for use for the purposes of the code of conduct.

6 Repeal

The Private Employment Agents (Code of Conduct) Regulation 2005, SL No. 71 is repealed.

Schedule 1 Private Employment Agents Code of Conduct

section 3

Part 1 Preliminary

1 Title

This code of conduct may be cited as the *Private Employment Agents Code of Conduct*.

2 Object

The object of this code is to establish a framework that—

- (a) promotes ethical conduct by private employment agents in their dealings with work seekers and others as part of the business of a private employment agent; and
- (b) encourages the provision by private employment agents of high quality placement and recruitment services for work seekers and persons looking for workers.

3 Definitions

In this code—

employer register see section 22.

fee, for part 2, division 3, includes advantage and benefit.

placement register see section 23.

worker register see section 21.

work seeker means a person seeking work.

4 Compliance with code

- (1) This code contains provisions with which a private employment agent must comply.

Note—

Contravention of a provision of this code is a ground for starting a proceeding for a charge of an offence if a maximum penalty is stated for a contravention of the provision or for obtaining an injunction under part 6 of the Act.

- (2) This code applies despite an instruction or request that does not comply with the code made by a work seeker or a person looking for workers or, if the private employment agent is an employee, the agent's employer.

Part 2 General rules of conduct

Division 1 General responsibilities

5 Knowledge of Act and code

A private employment agent must have a reasonable knowledge of the Act, this code, and any other Act relevant to the private employment agent's business.

Examples of relevant Acts—

- *Anti-Discrimination Act 1991*
- *Fair Trading Act 1989*
- *Fair Work Act 2009 (Cwlth)*
- *Further Education and Training Act 2014*
- *Industrial Relations Act 1999*
- *Information Privacy Act 2009*
- *Privacy Act 1988 (Cwlth)*
- *Right to Information Act 2009*
- *Workers' Compensation and Rehabilitation Act 2003*
- *Work Health and Safety Act 2011*

6 Honesty, fairness and professionalism

- (1) A private employment agent must act honestly, fairly and professionally in the conduct of the agent's business.
- (2) Without limiting subsection (1), an agent must treat work seekers and persons looking for workers honestly and fairly.

7 Skill, care and diligence

A private employment agent must exercise reasonable skill, care and diligence in the conduct of the agent's business.

8 Ensuring employees comply with Act and code

- (1) A private employment agent must take reasonable steps to ensure the agent's employees comply with the Act and this code.
- (2) Also, a private employment agent must promote—
 - (a) compliance with all relevant legislation and industrial instruments applying to work seekers and persons looking for workers; and
 - (b) ongoing training and skills development in the private employment agents industry.

Division 2 Dealings with work seekers

9 Ethical representation of work seeker

A private employment agent must represent a work seeker in an ethical and professional way.

10 Preservation of work seeker's potential

A private employment agent—

- (a) must not do anything that may unfairly jeopardise a work seeker's current work or future work opportunities; and

- (b) must ensure a work seeker's right to maximise the work seeker's potential for career development is preserved.

11 Advice about employment and placement options

A private employment agent must give a work seeker accurate advice about employment and placement options, including current labour market information.

12 Referrals

A private employment agent must promptly give a person looking for workers information about a work seeker on the basis of the work seeker's suitability for a vacant position and disregarding irrelevant considerations.

Example of an irrelevant consideration—

a prohibited ground of discrimination under the *Anti-Discrimination Act 1991*

13 Keeping work seeker informed

A private employment agent must, if a work seeker asks, give the work seeker whichever of the following is relevant within 7 days of the request—

- (a) if the work seeker is not referred as a candidate for a particular vacancy—genuine reasons the work seeker was not referred as a candidate for the vacancy;
- (b) advice on the work seeker's application for a vacancy;
- (c) if the work seeker is placed in a position—a copy of any documents about the position in the agent's possession at the relevant time.

Maximum penalty—14 penalty units.

14 Information about work seeker not to be disclosed

- (1) A private employment agent must not, without the work seeker's written permission, disclose the work seeker's identity or other details to a person looking for workers.

Maximum penalty—14 penalty units.

- (2) Also, a private employment agent must not otherwise disclose a work seeker's identity or other details other than as required by law.

Maximum penalty—14 penalty units.

15 Information about work seeker not to be improperly used

A private employment agent must not use information about, or provided by, a work seeker—

- (a) for a purpose other than finding work for the work seeker; or
- (b) in a way that is contrary to the terms of any permission given by the work seeker about the use of the information.

Maximum penalty—14 penalty units.

16 Dealing with work seekers from overseas

A private employment agent must not refer a work seeker to a person in Australia who is looking for workers if the work seeker is not legally entitled to work in Australia.

Maximum penalty—14 penalty units.

17 Dealings with overseas placements

A private employment agent must not refer a work seeker to a person in another country who is looking for workers if the work seeker—

- (a) is not entitled to work in the country; or
- (b) does not have a reasonable prospect of obtaining permission to work in the country.

Maximum penalty—14 penalty units.

Division 3 Fees

18 No fee as condition of finding work

Other than as provided by the *Industrial Relations Act 1999*, section 408D, a private employment agent must not seek or accept a fee, deposit or bond—

- (a) from, or on behalf of, a work seeker in Australia as a condition of finding or attempting to find work for the work seeker outside Australia; or
- (b) from, or on behalf of, a work seeker residing, or intending to reside, temporarily in Australia as a condition of finding or attempting to find work for the work seeker in Australia.

Maximum penalty—14 penalty units.

19 No fee for particular services

Other than as provided by the *Industrial Relations Act 1999*, section 408D, a private employment agent must not, as a condition of finding or attempting to find work for a work seeker—

- (a) charge the work seeker a fee for services or resources provided by the agent; or
- (b) require the work seeker to use services or resources provided by or through a supplier nominated by the agent; or
- (c) accept a financial benefit from a supplier nominated by the agent for the provision of services or resources by the nominated supplier because of a requirement mentioned in paragraph (b).

Maximum penalty—14 penalty units.

Examples of services—

- preparation of a resume or portfolio
- assistance, advice or training in interview preparation

20 Recovering fee for providing services for employer

- (1) A private employment agent is not entitled to recover from an employer who uses the services of the agent a fee for finding workers for the employer, unless, before providing the service, the agent—
 - (a) notifies the employer of the agent's fee for the service; and
 - (b) gives the employer a written notice confirming the amount of the agent's fee for the service.

Maximum penalty—14 penalty units.

- (2) In this section—

employer means a person who asks a private employment agent to find someone to do work for the person.

Division 4 Registers and correspondence

21 Worker register to be kept

- (1) A private employment agent must keep a register that complies with subsection (2) (a worker register) of persons looking for work.

Maximum penalty—14 penalty units.

- (2) The worker register must include the following particulars for each person who looks for work through the private employment agent—
 - (a) the person's name, address, age, gender and occupation;
 - (b) the type of work the person is looking for;
 - (c) the date the particulars mentioned in paragraphs (a) and (b) are entered in the register.

- (3) The private employment agent must not make or cause to be made in the worker register an entry that the person knows to be false.

Maximum penalty—14 penalty units.

22 Employer register

- (1) A private employment agent must keep a register of employers (an employer register) that complies with subsection (2).

Maximum penalty—14 penalty units.

- (2) The employer register must include the following particulars for each employer—
- (a) the employer's name and place of business;
 - (b) the type of work the employer is offering and the number of persons wanted for the work;
 - (c) the date the particulars mentioned in paragraphs (a) and (b) are entered in the register.
- (3) The private employment agent must not make or cause to be made in the employer register an entry that the person knows to be false.

Maximum penalty—14 penalty units.

- (4) In this section—

employer means a person who asks a private employment agent to find someone to do work for the person.

23 Placement register

- (1) A private employment agent must keep a register of placements (a placement register) that complies with subsection (2).

Maximum penalty—14 penalty units.

- (2) The placement register must include the following particulars for each person the private employment agent places into work with an employer—
- (a) the person's name;
 - (b) the employer's name;
 - (c) the type of work the person will do for the employer;

- (d) the date the particulars mentioned in paragraphs (a) to (c) are entered in the register.
- (3) The private employment agent must not make or cause to be made in the placement register an entry that the person knows to be false.

Maximum penalty—14 penalty units.

- (4) In this section—

employer means a person who asks a private employment agent to find someone to do work for the person.

24 How long registers must be kept

A private employment agent must keep the agent's worker register, employer register and placement register in the agent's possession for at least 6 years after the end of the year to which the last entry in the register relates.

Maximum penalty—14 penalty units.

25 How long correspondence must be kept

- (1) A private employment agent must keep all relevant correspondence received by the private employment agent for at least 6 years after the day the correspondence was received.

Maximum penalty—14 penalty units.

- (2) A private employment agent must keep all relevant correspondence sent by the private employment agent for at least 6 years after the day the correspondence came into existence.

Maximum penalty—14 penalty units.

- (3) In this section—

relevant correspondence means correspondence that relates to the conduct of the private employment agent's business as a private employment agent.

Division 5 Other provisions

26 False information

A private employment agent must not—

- (a) publish any false information in the course of carrying on the business of a private employment agent; or
- (b) make, or knowingly permit an employee of the agent to make, a false statement to a work seeker about—
 - (i) the nature or availability of any work; or
 - (ii) the Act; or
 - (iii) this code; or
 - (iv) any Act relevant to employment or workplace health and safety; or
 - (v) any relevant industrial instrument.

Maximum penalty—14 penalty units.

27 Identification of agent in publications

A private employment agent must ensure that each publication published by, or for, the agent includes the following particulars—

- (a) the name under which the agent carries on the business of a private employment agent;
- (b) the address at which the agent carries on business;
- (c) the telephone number of the business.

Maximum penalty—14 penalty units.

28 Availability of code

A private employment agent must—

- (a) ensure a copy of this code is always available at the private employment agent's place of business for perusal on request; or

- (b) if a copy is not available at the private employment agent's place of business—immediately tell a person who asks to see the code where the person can obtain a copy.

Maximum penalty—14 penalty units.

29 Information statements

- (1) Before a private employment agent provides a service for a work seeker, the agent must give the work seeker a statement (an *information statement*) in the approved form.

Maximum penalty—14 penalty units.

- (2) The approved form must include the following information—
 - (a) that a private employment agent must not charge fees in contravention of the *Industrial Relations Act 1999*, section 408D;
 - (b) that the agent and the agent's employees have a working knowledge of State and Commonwealth legislation affecting the placement and employment of persons seeking work;
 - (c) that the agent will make all placements as required under the relevant legislation;
 - (d) the name and other contact details of the department from whom the person may obtain information about action that may be taken if the person believes a private employment agent has acted illegally, inappropriately or in a false and misleading way.

Part 3 **Particular rules of conduct for dealings with models and performers**

30 **Who this part applies to**

- (1) This part applies to private employment agents—
 - (a) whose business includes seeking work for models and performers; or
 - (b) who are managers of models and performers.
- (2) A private employment agent to whom this part applies must comply with this part and part 2.
- (3) In this section—

manager means a manager within the meaning of the *Industrial Relations Act 1999*, section 408C.

31 **Provision of written notice about engagements**

- (1) Within 5 days after a private employment agent receives from a person looking for workers any information mentioned in subsection (2) in relation to a model or performer's placement in work, the agent must give the model or performer a written notice about the placement stating the information.

Maximum penalty—14 penalty units.

- (2) The information is—
 - (a) the work conditions; and
 - (b) the nature of the work to be undertaken; and
 - (c) the rates of payment for the work; and
 - (d) the pay arrangements.

32 **Provision of financial statements**

- (1) As soon as practicable, but no later than 10 days after receiving an amount payable to a model or performer, a

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private employment agent must give the model or performer a statement—

- (a) giving particulars of the amount received; and
- (b) showing the amount paid to the model or performer for the engagement.

Maximum penalty—14 penalty units.

- (2) A private employment agent who receives an amount from someone else on behalf of a model or performer must—

- (a) hold the amount exclusively for the model or performer; and
- (b) pay the amount to the model or performer within 7 days after receiving the amount.

Maximum penalty—14 penalty units.

- (3) The private employment agent must pay the amount to the model or performer personally or deposit the amount into an account nominated by the model or performer at a nominated financial institution.

Maximum penalty—14 penalty units.