

Private Employment Agents (Code of Conduct) Regulation 2015

Explanatory notes for SL 2015 No. 93

made under the

Private Employment Agents Act 2005

General Outline

Short Title

Private Employment Agents (Code of Conduct) Regulation 2015

Authorising law

Sections 6 and 50 of the *Private Employment Agents Act 2005* (PEA Act)

Policy objectives and the reasons for them

The activities of private employment agents are regulated by the PEA Act and the *Private Employment Agents (Code of Conduct) Regulation 2005* (the PEA Code 2005). The PEA Act and PEA Code 2005 address concerns associated with imbalances of information and therefore the standards of conduct and service of private employment agents and the bargaining power between work seekers and agents.

In accordance with the 10 year sunset provisions for regulations in the *Statutory Instruments Act 1992*, the PEA Code 2005 is due to expire on 1 September 2015.

The PEA Code 2005 prescribes standards of conduct and service for agents and operate in conjunction with the PEA Act and the *Industrial Relations Act 1999* (IR Act), Chapter 11A which prohibits the charging of fees by agents and managers from work seekers (except for permitting limited fee charging from models and performers).

The object of the PEA Code is to provide a framework that:

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

Consideration of regulatory activity under the PEA Code 2005 and its objectives indicated no substantive issues which need to be addressed and that it adequately provides for standards to protect work seekers without imposing onerous obligations upon private employment agents. However it is considered that if the required standards were discarded work seekers and others in the industry could be left vulnerable to unsatisfactory conduct by private employment agents. It is also considered that maintaining the Code in its current form will deliver the greatest net benefit to the community. As such it is appropriate that the provisions of the PEA Code 2005 be continued with minimal change in a new regulation.

Therefore, the *Private Employment Agents (Code of Conduct) Regulation 2015* (PEA Code 2015) repeals the PEA Code 2005 and makes similar provisions for regulating the standard of conduct and services for private employment agents with minor necessary amendments limited to removing obsolete provisions and reflecting modern drafting practice.

Achievement of policy objectives

The PEA Code 2015 is to commence on 1 September 2015. It will continue to stipulate minimum standards of conduct required for private employment agents.

Consistency with policy objectives of authorising law

The PEA Code 2015 is consistent with one of the main policy objectives of the PEA Act, which is to provide for the creation of a code of conduct as the main way of regulating the conduct of private agents in their relationships with persons looking for work or for workers.

Inconsistency with policy objectives of other legislation

The PEA Code 2015 is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

It is considered that maintaining the Code in its current form will deliver the greatest net benefit to the community. The Code prescribes standards of conduct and service required of private employment agents and supports statutory mechanisms to impose sanctions on agents who do not adhere to those standards.

As the requirements in the PEA Code 2015 remain unchanged from the PEA Code 2005, the replacement Regulation does not impose any additional costs.

Consistency with fundamental legislative principles

The replacement Regulation is consistent with fundamental legislative principles.

Consultation

The Department of the Premier and Cabinet and the Office of the Queensland Parliamentary Counsel were consulted on the making of a replacement regulation.

The relevant peak stakeholder organisations, the Media, Entertainment and the Arts Association and the Queensland Council of Unions representing workers and work seekers and the Recruitment and Consulting Services Association representing private employment agents were also consulted on the making of a replacement regulation. There were no objections to the proposal.

A Regulatory Principles Checklist, a Preliminary Impact Assessment and supplementary material were submitted to the Office of Best Practice Regulation (OBPR), proposing that the current regulatory standards of conduct for the provision of services by private employment agents were adequate and appropriate to the objective of providing a code of conduct as the main way of regulating the conduct of private employment agents in their relationships with persons looking for work or for workers and that these standards should be continued in the PEA Code 2015. OBPR advised that the Regulatory Impact Statement system requirements had been met and that no further analysis was necessary.