

The Conduct Regulations



The Conduct Regulations - Guidance Note

On commencement of employment, all umbrella employees of ICS Umbrella Ltd (ICS) will be asked whether they would like to remain within or opt out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended), commonly known as the “**Conduct Regulations**”.

We have prepared this guidance note to assist you in understanding what the Conduct Regulations are, who they apply to, what protection they afford to you, and the circumstances in which you can (and cannot) opt out of the Conduct Regulations.

We would strongly advise that you read this guidance note carefully before confirming to ICS whether you would like to remain within or opt out of the Conduct Regulations. If you have any questions in respect of the Conduct Regulations, please contact our new business team

What are the Conduct Regulations and who do they apply to?

As a very brief overview, the Conduct Regulations are rules that govern the way that recruitment businesses are required to treat candidates/contractors and clients.

The Conduct Regulations are designed to provide protection to ‘work-seekers’, in an attempt to ensure that they are treated fairly by recruitment businesses. A work-seeker is a person and/or company that is looking for permanent and/or temporary work, including any employee employed by an umbrella company under an overarching contract of employment (such as yourself). It also includes individuals engaged under a self-employed or CIS contract for services, who are supplied to an end-user client via an employment business.

The protection afforded to you under the Conduct Regulations is achieved by imposing requirements and restrictions on the agency.

As an umbrella employee, you are automatically protected by the Conduct Regulations throughout your employment with ICS. That is the case unless you decide to opt out of the Conduct Regulations (provided you are legally able to do so in the circumstances), which is dealt with in more detail below.

Protections of the Conduct Regulations

As detailed above, the main aim of the Conduct Regulations is to protect work-seekers such as yourself. Some of the key protections of the Conduct Regulations are summarised below.

- The agency is prohibited from charging you a fee for finding you work (subject to certain limited exceptions in certain industries such as modelling and sports).
- The agency is prohibited from withholding or threatening to withhold payment due to ICS (which in turns allows us to pay you) you on the grounds that:
 - The agency has not received payment from the end-user client;
 - You have not produced a signed time sheet (although payment can be delayed briefly whilst the agency investigates how many hours you have worked); or
 - You have failed to work for a stated minimum number of hours. For example, if you had agreed to a week-long assignment but left after 3 days, you would still be entitled to payment for those 3 days.
- The agency must not subject you to a detriment (or threaten to subject you to a detriment) on the grounds that:
 - You have terminated or given notice to terminate your contract with the agency; or
 - You have taken up (or propose to take up) employment with any other person (including the end-user client).

Opting Out of the Conduct Regulations

You are able to choose to opt out of the Conduct Regulations if you wish. However, please note that you are **not permitted** to opt out of the Conduct Regulations if your assignment would involve you working with 'vulnerable people'. Vulnerable people are defined as those under the age of eighteen or who "by reason of age, infirmity, illness, disability or any other circumstance are in need of care or attention". For example, if you are working as a teacher or a nurse, you are not allowed to opt out of the Conduct Regulations even if you wanted to.

Some contractors and umbrella employees wish to opt out of the Conduct Regulations because they perceive the regulations as adding an unnecessary administrative burden which slows down the onboarding process. However, please note that if you opt out of the Conduct Regulations, you will lose the protections detailed above. In particular, the following main implications will apply:

- You will lose the protection detailed above in relation to payment if the end-user client fails to pay the agency for your completed work.
- You may be subject to restrictive covenants which restrict you from working for a competitor agency or end-user client.
- Before being introduced to a potential end-user client, ICS must first agree terms with the agency.

It is important to note that you cannot cherry pick which elements of the Conduct Regulations to opt out of. If you choose to opt out of the Conduct Regulations, then none of the provisions/protections will apply.

The decision of whether or not to opt out of the Conduct Regulations is entirely down to you. Neither ICS, the agency and/or the end-user client can make an assignment conditional on you opting out of or otherwise put any pressure on you to opt-out. If you ever feel that this is the case, you should inform ICS immediately on the details above.

When you commence employment with ICS, you will be asked whether you would like to opt out or remain within the Conduct Regulations. You will be provided with a form to complete to confirm your decision, and ICS will also sign this form. You can also use this form to change your Conduct Regulation status, for example, if you initially choose to opt out and later want to opt back in (or vice versa).

In order for an opt-out to be valid, both you and ICS are required to agree to the opt-out. Notice of this opt-out must then be given to the agency, who will need to inform the end-user client so that all parties in the chain are aware of your Conduct Regulation status. Unless these steps are followed, any opt-out notice will not be effective. **Any opt-out notice must also be provided in advance of you being introduced to or starting any assignment with the end-user client.**

Therefore, if you wish to opt out of the Conduct Regulations, you must notify us and the necessary steps must be taken before you begin the assignment, otherwise you will not be able to opt out until you begin the next assignment (see below).

An opt-out notice (or a decision to opt back in) will not be effective until you have finished your current assignment, and so you cannot change your Conduct Regulations status part-way through an assignment. This means that if you want to change your Conduct Regulation status (by either opting out or opting back in), you should be aware that this change will not take effect until your current assignment comes to an end.

Any Questions?

We appreciate these types of regulations can be quite confusing.

If you have any questions, please contact our new business team on 01524 580720 or email info@icsuk.com



www.icsuk.com | 0800 195 3750

Lancaster Business Park | 2 Mannin Way | Lancaster | LA1 3SU

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