

The rights and obligations of the employee and the agency

(text as annex 5 to the Decision of the Flemish Government of 10 December 2010 implementing the Decree of 10 December 2010 relating to private job placement)

- 1.** The agency may under no circumstances request or receive any compensation from the employee.
- 2.** The agency must treat all involved parties in an objective, respectful and non-discriminatory manner, and may not prepare or publish personnel advertisements that can give rise to discrimination.
- 3.** The agency must respect the personal privacy of the employees and may only request and use data belonging within the sphere of personal privacy with the permission and in the interest of the employee within the framework of his/her professional integration and in compliance with the regulations concerning the processing of personal data and the free movement of these data.
- 4.** The agency must grant inspection to the principal and the employees concerning the data stored about them and must furnish them with a copy of their file, at their request, after completion of the assignment.
- 5.** The agency may only request and use information about the employer-principal and the employees within the framework of the placement activities.
- 6.** The agency must provide the employer-principal and the employees with correct, timely and complete information about the placement activities and about the nature of the employment.
- 7.** Personality studies and psychological tests may only be conducted by or under the responsibility of a psychologist.
- 8.** The temporary employment agency may not perform any placement activities for openings where there is no real job offer behind it.
- 9.** The agency may not engage in any activities that lead to an employment that conflicts with public order or of which the agency can clearly determine that they constitute a violation of the social security or tax laws.
- 10.** The temporary employment agency may not engage in any placement activities in so far as they relate to a cessation, exclusion or a suspension of an employment contract, as a result of bad weather or in the absence of work due to economic reasons.
- 11.** The agency may place employees of foreign nationality if the regulations concerning the employment of foreign workers are complied with.
- 12.** The agency may not assume the employer-principal's place with regard to recruitment or dismissal decisions or the negotiations concerning them.
- 13.** The temporary employment agency may not perform temporary work activities by means of an exclusivity clause.

14.1. Placement agencies for spectacle artists and paid athletes may only receive fees, commissions, contribution, admission or registration fees, hereafter all referred to as commissions, if the following conditions are satisfied:

1° the commission is established in advance in a written agreement between the agency and the principal. If the private job placement is offered together with other services, the commission for the various services is established separately;

2° the employee expressly and agrees in advance with the commission;

3° the parties each dispose of an original of this agreement.

14.2. The commission for the placement of the spectacle artist is calculated on the compensation that the spectacle artist will receive for his/her performance. The commission for the placement of the paid athlete is calculated on the anticipated total gross annual income of the paid athlete, and this over the entire term of the contract.

15. Each temporary employment agency must possess an authorisation.

16. In all of its external communications, meaning in its contracts, offers, invoices, correspondence, e-mail traffic, personnel advertisements that are published via written or visual media and on its websites, the temporary employment agency must make mention of its authorisation number.

17. The agency must present this text to everyone who calls upon private job placement or must post this text in full in the publicly-accessible premises of the agency, in the place where this text can best be read.

18. Agencies that have as activities the announcement of job offers via the written, aural or visual media (TV, newspapers, internet, radio, and so on), must make this text known in full via the involved medium or expressly mention the location (e.g. internet address) where this text is made available. This text must be made available free of charge by the agency at simple request.

19. The agency must sign and comply with the code of conduct. The code of conduct constitutes an integral part of this text.

20. Complaints about alleged violations of the job placement legislation can be filed with:

Vlaams Subsidieagentschap voor Werk en Sociale Economie

[Flemish Subsidy Agency for Work and Social Economy]

Migration and Job Placement Agencies Service

Ellipse Building

Koning Albert II-laan 35, box 21

1030 Brussels

telephone: 02-553 44 73

e-mail: arbeidsbemiddeling@vlaanderen.be

In order to be admissible, the complaint must be substantiated and clearly describe the alleged violation. The complainant's anonymity is guaranteed.

21. Complaints can also be submitted to:

Department of Work and Social Economy
Inspection Section
Ellipse Building
Koning Albert II-laan 35, box 20
1030 Brussels
telephone: 02 553 08 88
e-mail: werkgelegenheid.inspectie@vlaanderen.be

22. The following service is in charge of supervising and enforcing the job placement decree and its implementing decisions:

Department of Work and Social Economy
Inspection Section
Ellipse Building
Koning Albert II-laan 35, box 20
1030 Brussels
telephone: 02-553 08 88
e-mail: werkgelegenheid.inspectie@vlaanderen.be

Intended to be added as an annex to the decision of the Flemish Government of 10 December 2010 implementing the decree relating to private job placement.