

## BACKGROUND TO WHY WE ASK IF YOU WOULD LIKE TO OPT-OUT OF EMPLOYMENT AGENCIES ACT 2003

In 2003 the government passed the Employment Agencies Act through the Houses of Parliament. The Act becomes effective from the 6<sup>th</sup> April 2004 and applies to **ALL** employment agencies and businesses.

The legislation has been introduced to help regulate our industry, introduce common practices and to ensure that temporary workers are not disadvantaged by the actions of agencies.

### **Then why opt out?**

The EAA has been in consultation since 1999. One of the major concerns raised by the Recruitment and Employment Confederation, our governing body, and various contractor interest groups is the EAA effect of the employment status of the Limited Company Contractors and its interaction with IR35.

Regulation 12 prohibits withholding of payment if a timesheet is not produced but the agency can independently verify hours worked. The reference in the regulation to hours worked could, in some cases, call into question the amount of financial risk that a contractor is taking.

For the purposes of establishing whether an assignment falls within the scope of IR35, financial risk is one of the key areas that is considered by the Inland Revenue. We would urge you to take professional advice to establish the best course of action for you.

You have been issued with an opt out contract,

### **If you want to opt in**

Call us immediately on **023 8033 4444**

We will need to issue a different contract for services to take into account that you have opted in of the EAA 2003. Once you have commenced an assignment you will not be able to opt out until that assignment has ceased.

**OPT OUT NOTIFICATION**

There is provision in the Conduct Regulations 2003 for companies and those workers whose services they supply, to opt out of the Conduct Regulations 2003. If, you, the Contractor, and the Individual to be supplied to do the work wish to opt out, please read this form carefully. You are also recommended to take independent legal advice.

**Date:** 2005

**Parties:** (1) LTD COMPANY of ADDRESS (the "Consultancy")  
(2) CANDIDATE of ADDRESS (the "Individual")

1. This Opt Out Notification is supplement to the agreement ("the Agreement") between the Employment Agency and the Contractor. The terms used in this notification shall have the same meaning as those defined in the Agreement.
2. The Contractor and the Individual acknowledge that it is their intention that the provisions of the Conduct of Employment Agencies & Employment Businesses Regulations 2003 (the "Conduct Regulations 2003") do not apply to the Assignment or to any future assignment agreed between the parties.
3. The Parties have freely entered into this Opt Out notification.
4. Further that the Individual is free to withdraw from this Opt Out notification at any time by giving not less than one week's written notice to the Employment Agency. However, where notice is given during an assignment it will not take effect until the Individual stops working in the position in question.

**We the undersigned have read, understand and agree to be bound by the terms of this Opt Out Agreement.**

**In particular, we understand that by signing this Opt Out Agreement we are agreeing that the provisions of the Conduct Regulations 2003 shall not apply.**

Signed \_\_\_\_\_  
For and on behalf of the Contractor  
Dated \_\_\_\_\_

Signed \_\_\_\_\_  
The Individual  
Dated \_\_\_\_\_

(A director of the Ltd Company must sign for the Contractor)