

THE EMPLOYMENT AGENCIES REGULATION
ACT

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THE EMPLOYMENT AGENCIES REGULATION
ACT

Law
43 of 1956.
Acts
48 of 1968,
13 of 1974,
6 of 2007.

[2nd December, 1957.]

1. This Act may be cited as the Employment Agencies Regulation Act. Short title.

2.—(1) In this Act—

Interpreta-
tion and
application.

“employment agency” means any agency or registry in the Island carried on or represented as being or intended to be carried on for or in connection with the employment of persons in any capacity;

“Inspector” means an Inspector of employment agencies appointed under section 5;

“Licensing Officer” means the officer designated under subsection (1) of section 3; 13/1974
S. 2.

“proprietor of an employment agency” means the person by whom or on whose behalf the employment agency is being or is to be operated.

(2) This Act shall not apply to any employment agency or registry conducted by or under the direction of the Minister or which is not carried on for the purpose of gain or reward.

3.—(1) The Minister may from time to time designate a public officer to be the Licensing Officer for the purposes of this Act.

Designation
of Licensing
Officer and
issue of
licences.
13/1974
S. 3.

(2) Subject to the provisions of this Act, the Licensing Officer shall—

- (a) where an application for the grant or renewal of a licence relates to the placing of persons in employment in Jamaica only, grant, refuse, renew or revoke that licence in his discretion; and
- (b) where an application for the grant or renewal of a licence relates to the placing of persons in employment outside Jamaica, grant, refuse, renew or revoke that licence in accordance with any directions given, or subject to any conditions imposed, by the Minister as to the exclusion of any country, or of any category of worker, or otherwise in relation to that licence.

Licensing of
employment
agencies.
13/1974
S. 4.

4.—(1) (a) It shall not be lawful for any person to carry on an employment agency without a licence from the Licensing Officer authorizing him to do so.

(b) Paragraph (a) of this subsection shall not prejudice the validity of the continuance in operation of any licence which was granted by lawful authority prior to the 1st June, 1974, and in respect of any period after that date any such licence shall be treated and dealt with as if it were issued by the Licensing Officer.

48/1968
S. 2(a).

(2) From and after such day as the Minister may specify in a notice published in the *Gazette* and in at least one issue of a newspaper printed and circulating in Jamaica, no person who is the proprietor of an employment agency, or who is employed therein or who is otherwise concerned in the operation of such employment agency shall do anything which he knows or ought to know to be designed to facilitate the placing of anyone in employment outside Jamaica unless a valid licence under this Act in respect of such employment agency contains authority for the employment agency to be used for the placing of persons in employment outside Jamaica.

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment. 6/2007
S. 2.

(4) Where a company is guilty of a contravention of this section, every director, manager, agent or officer of the company in the Island who is knowingly a party to the contravention shall be liable to the penalties prescribed by subsection (2). 48/1968
S. 2(c).

5.—(1) The Minister may appoint such persons as he thinks fit to be Inspectors of employment agencies for the purpose of investigating complaints and otherwise securing the proper observance of the provisions of this Act. Appointment
of Inspectors
and powers
of entry and
inspection.

(2) The Minister shall furnish every Inspector with a certificate of appointment.

(3) An Inspector may at all reasonable times enter and inspect any premises which are used or which he has reasonable cause to believe are used for the purposes of or in connection with an employment agency and may examine the entries required to be made in the records kept in connection therewith and copy any material part of such records.

6.—(1) Every application for a licence or the renewal of a licence under this Act shall be made to the Licensing Officer and shall be in such form and contain such particulars as may be prescribed. Application
for licence.
48/1968
S. 3.
13/1974
S. 5(a).

13/1974
S. 5(b).

(2) If the Licensing Officer is satisfied that the application is in order, he shall—

- (a) direct an Inspector to visit and inspect the premises on which the employment agency in respect of which the application is being made, is being or is to be operated; and
- (b) inform the applicant in writing of such direction.

(3) Where directed under paragraph (a) of subsection (2), an Inspector may, for the purpose of carrying out an inspection under this section—

- (a) enter and examine the premises upon which the employment agency in respect of which the application is made, is being or is to be operated;
- (b) request any person on the premises to produce for his examination any books, vouchers and other documents in his custody which may contain information that he reasonably believes will assist in the making of a decision as to whether or not the application should be granted;
- (c) make copies of, and extracts from, any books, vouchers or other documents produced to him during the course of the inspection;
- (d) put to any person on the premises any question relating to the application or the affairs of the employment agency if he reasonably believes that any information can be obtained which will assist in the making of a decision as to whether or not the application should be granted.

13/1974
S. 5(c).

(4) The Inspector shall produce his certificate of appointment to any person on the premises reasonably requiring him so to do.

13/1974
S. 5(c).

(5) Forthwith upon the completion of the inspection as aforesaid the Inspector shall make a report thereon in writing to the Licensing Officer.

13/1974
S. 5(d).

7.—(1) The Licensing Officer shall, as soon as practicable after the receipt of the report of the Inspector under subsection (5) of section 6—

Grant or
renewal of
licence.
13/1974
S. 6.

- (a) as respects an application for a licence relating to the placing of persons in employment outside Jamaica, refer the application, together with the relevant report under subsection (5) of section 6 from the Inspector, to the Minister for his direction on the matter; or
- (b) as respects an application for a licence relating to the placing of persons in employment in Jamaica only, grant or renew a licence to the applicant to carry on an employment agency of the description and in the name and at the address specified in the application:

Provided that he may refuse to grant or renew, or may revoke such licence granted—

- (i) to any person under the age of eighteen years;
- (ii) to any person who is a bankrupt;
- (iii) to any person who he has reason to believe is unsuitable to hold such a licence;
- (iv) in respect of any premises which are unsuitable for the purposes of an employment agency;
- (v) in respect of any employment agency which has been or is being improperly conducted.

(2) Where it is proposed to exercise the power to revoke or to refuse the renewal of a licence granted to any person pursuant to subsection (1) the Licensing Officer shall—

13/1974
S. 6.

- (a) give to that person not less than ten days' notice to that effect; and

- (b) if that person makes written application for the purpose within seven days of receipt of the notice aforesaid, afford him an opportunity to show cause why the power aforesaid should not be exercised.

Bond required as condition for inclusion of authority to use agencies for employment abroad.

48/1968
S. 4.
13/1974
S. 7.

8. Authority for an employment agency to be used for the placing of persons in employment outside Jamaica shall not be included in any licence granted under this Act unless the proprietor of such employment agency furnishes the Licensing Officer, in such form and manner as may be prescribed, with a bond entered into by the proprietor with surety in such amount as may be prescribed, as a guarantee of his financial ability to operate the employment agency and to refund such fees charged by the employment agency as he may from time to time become liable to refund.

Transfer of licence.

9.—(1) Applications for the transfer of a licence—

- (a) to some other person; or
(b) to some other premises,

13/1974
S. 8.

may be made to the Licensing Officer who may grant or refuse the same in accordance with the provisions of this Act.

13/1974
S. 8.

(2) In the case of a proposed transfer to some other person, the application shall state the name, address, occupation and description of the proposed transferee and such other particulars as will show his fitness to be granted a licence. The Licensing Officer may direct an Inspector to make proper enquiries as to the fitness of the proposed transferee and make a report in writing thereon.

13/1974
S. 8.

(3) In the case of a proposed transfer to some other premises, no order shall be made by the Licensing Officer under subsection (4) until such premises have been inspected by an Inspector, and for the purposes of such inspection the provisions of subsections (2), (3), (4) and (5) of section 6 shall be deemed to be applicable to such premises.

(4) If an application for a transfer is granted the Licensing Officer shall endorse upon the licence held by the applicant an order to that effect.

10. The person making application under subsection (1) of section 6 or under section 8 shall, when making the same, pay to the Licensing Officer in respect of the grant, renewal or transfer of a licence, as the case may be, the prescribed fee.

Payment of fees.
13/1974
S. 9.

11. Every licence granted under the provisions of this Act shall (unless revoked) be valid for a period of one year from the date of issue.

Duration of licence.
13/1974
S. 10.

12.—(1) Where the Licensing Officer—

- (a) refuses to grant, transfer or renew a licence; or
- (b) revokes a licence,

under this Act, he shall inform the applicant or holder, as the case may be, by registered letter of his decision, and if required by such person to do so, deliver to him within seven days of the receipt of such requirement, particulars in writing of the grounds for such refusal or revocation.

Licensing Officer to inform applicant of grounds for refusal or revocation, and right of appeal.
13/1974
S. 11.

(2) Any person aggrieved by a refusal or revocation mentioned under subsection (1) may, within twenty-one days after the date on which he is informed by registered letter of the Licensing Officer's decision, appeal against that decision to a Judge in Chambers who shall give such directions in the matter as he thinks proper, including a direction as to the costs of the appeal, and the order of the Judge shall be final and conclusive and not subject to any further right of appeal.

13/1974
S. 11.

13. Rules of court may be made regulating appeals under this Act and all matters incidental thereto.

Rules of court.

Licence and regulations to be exhibited on premises.

14. Every person holding a licence under this Act shall keep exhibited in a conspicuous place on the premises to which the licence relates, the licence and a copy of the regulations in force under this Act.

Audit of accounts of employment agency.

15.—(1) The accounts of every employment agency shall be audited annually by an auditor selected by the proprietor of the employment agency and approved by the Minister.

(2) The proprietor of the employment agency shall, as soon as possible after each audit, furnish the Licensing Officer with a copy of the auditor's report for transmission to the Minister.

13/1974
S. 12.

Regulations.

16.—(1) The Minister may make regulations generally for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations may be made under that subsection—

- (a) requiring any person holding a licence under this Act to keep records showing the business conducted by him so far as it relates to his employment agency;
- (b) prescribing entries to be made in the records kept in connection with the business of any employment agency;
- (c) for the prevention of fraud or immorality in the conduct of employment agencies;
- (d) for regulating any premises used for the purposes of or in connection with employment agencies;
- (e) regulating the fees to be charged by employment agencies for their services;
- (f) prescribing the forms of application, licence, reports and other documents to be used under this Act;

(g) regulating the manner in which and the conditions subject to which the services of employment agencies shall be performed; 48/1968 S. 5.

(h) prescribing any other matter or anything which may be, or is required by this Act to be, prescribed.

(3) Regulations made under this section may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court, of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months, or of both such fine and imprisonment. 6/2007 S. 3.

17.—(1) Every person who—

Penalties.

(a) obtains a licence or the transfer or renewal of a licence by wilful misrepresentation or by wilfully omitting to give such particulars as are required by this Act to be given; or

(b) refuses to permit any Inspector to enter or inspect any such premises as are referred to in subsection (3) of section 5 or to examine the entries required to be made in the records kept in connection with the employment agency carried on therein, or obstructs him in the execution of his duty under this Act; or

(c) without reasonable cause or excuse, fails—

(i) to comply with any request made by an Inspector under paragraph (b) of subsection (3) of section 6; or

(ii) to answer any question put to him by an Inspector under paragraph (d) of subsection (3) of section 6; or

(iii) to comply with the provisions of section 14,

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months. 6/2007 S. 4(a).

(2) In respect of any conviction for an offence under this Act the court may (in lieu of or in addition to imposing a penalty) make an order revoking the licence (if any):

Provided that—

- (a) any person aggrieved by any order under this section may appeal therefrom to a Judge in Chambers whose decision shall be final and conclusive and not subject to any further right of appeal;
- (b) a person who has appealed to a Judge in Chambers in accordance with the provisions of this Act against any refusal of the renewal of a licence or against the revocation of a licence shall not be liable to any proceedings under this Act for the offence of carrying on an employment agency without a licence until such appeal has been heard and determined or has been abandoned.

6/2007
S. 4(b).

(3) The Minister may from time to time, by order, subject to affirmative resolution, amend any penalty specified in this Act.