

**THE LICENSING OF RECRUITING AGENTS FOR OVERSEAS EDUCATIONAL
AND TRAINING INSTITUTIONS BILL**

(No. XXI of 2006)

Explanatory Memorandum

The object of this Bill is to provide for the licensing of persons or bodies recruiting students for admission to overseas educational and training institutions.

21 July 2006

D. GOKHOOL

Minister of Education and Human Resources

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AND TRAINING INSTITUTIONS BILL**

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ARRANGEMENT OF CLAUSES

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A BILL

To provide for the regulation of persons or bodies recruiting students for admission to overseas educational and training institutions

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Licensing of Recruiting Agents for Overseas Educational and Training Institutions Act 2006.

2. Interpretation

In this Act –

“agent” -

- (a) means any person engaged in the recruitment of students on behalf of an institution; and
- (b) does not include a body specified in the Schedule;

“contract of recruitment” means a contract between a licensee and a student under section 6;

“*force majeure*” means a state of war, acute political instability, severe epidemics and natural calamities prevailing in a country where an educational and training institution is found;

“institution” means an overseas educational and training institution;

“licence” means a licence issued under section 4;

“Minister” means the Minister to whom responsibility for the subject of education is assigned;

“Ministry” means the Ministry which is responsible for the subject of education;

“minor”, in relation to a student, means a child or young person under the age of 18;

“Officer in Charge” means the official head of the Ministry;

“overseas educational and training institution” means any overseas institution or establishment providing or offering to provide post-secondary education and training, including technical or professional education;

“recruit”, in relation to students, means recruit for admission to an institution on behalf of that institution;

“responsible party” in relation to a child or young person has the same meaning as in the Education Act.

3. Application of Act

Any student may, notwithstanding this Act, apply directly to the institution to which he seeks admission.

4. Licences

(1) No person shall act as an agent, unless he holds a licence issued under subsection (4).

(2) Any person who wishes to act as an agent shall apply for a licence to the Officer in Charge in such form and in such manner as may be prescribed.

(3) Every application made under subsection (2) shall be accompanied by -

- (a) a written authority duly issued and authenticated by the institution, certifying that the applicant is acting on its behalf;
- (b) particulars regarding the institution; and
- (c) such other information as may be required by the Officer in Charge.

(4) On receipt of an application under subsection (2), the Officer in Charge may issue a licence in such form and on such terms and conditions as may be prescribed.

(5) No licence shall be issued under subsection (4) unless the applicant pays such fee, and furnishes such security, as may be prescribed.

(6) The security to be furnished under subsection (5) may be furnished –

- (a) by cash deposited with the Accountant-General; or
- (b) by means of a bank guarantee issued by a bank licensed under the Banking Act 2004.

(7) A licence issued under subsection (4) –

- (a) shall be valid for a period of 2 years;
- (b) shall not be transferable; and
- (c) may be renewed on payment of such fee as may be prescribed.

5. Duties of licensee

(1) Every licensee shall comply with the terms and conditions specified in his licence and shall be responsible for -

- (a) providing clear and comprehensive written information to a prospective student on the institution including –
 - (i) the quality and cost of the courses offered;

- (ii) reasonable monthly living costs of a student;
 - (iii) the quality and cost of health facilities available to a student; and
 - (iv) the level of security at the institution;
- (b) providing such documents as are required for entry visa purposes to every student whose admission to an institution is being processed by the licensee;
 - (c) the completion of all admission formalities to the institution of the student; and
 - (d) facilitating the return of a student, including the obtention of an exit visa where appropriate, and the completion of any other formalities -
 - (i) where the student has been seriously injured or is unfit on grounds of ill-health to continue his studies;
 - (ii) where the security of the student in the country in which he is studying is threatened by circumstances amounting to *force majeure*; or
 - (iii) in case of death of the enrolled student in the country in which he is studying.

(2) Every licensee shall, within 5 days of the departure of a student from Mauritius, forward a copy of the contract of recruitment to the Officer in Charge, together with a notice containing -

- (a) the name, address, telephone number and other contact details in Mauritius of the responsible party of the student;
- (b) the date of departure of the student from Mauritius and his date of arrival at his final destination;
- (c) the address, telephone number and other contact details of the student abroad; and
- (d) the name of the institution to which the student has been admitted, the student's programme of study and its duration.

(3) Notwithstanding subsection (1)(d), any cost incurred under that subsection shall be borne by the student or where applicable, his responsible party or insurance company, unless otherwise provided in the recruitment contract.

6. Contract of recruitment

(1) Where a student intends to seek admission to an institution through a licensee, the licensee shall enter into a contract of recruitment with -

- (a) the student; or
- (b) his responsible party, in the case of a minor student,

in such form as may be prescribed.

(2) The licensee shall notify the Officer in Charge of any change in the terms and conditions of a contract of recruitment within 15 days of any such change being made.

(3) Any contract of recruitment which contravenes this Act or any regulations made under this Act shall be null and void.

(4) The Officer in Charge shall not be liable with respect to any act or omission of the licensee or of the student under the contract of recruitment.

7. Powers of Officer in Charge

- (1) The Officer in Charge may –
 - (a) summon any licensee, student or, where applicable, the responsible party;
 - (b) use the security referred to in section 4(5) to compensate a student or his responsible party for any breach of contract through the fault of the licensee;
 - (c) suspend or revoke a licence where a licensee has contravened any term and condition of his licence, or acted in breach of this Act.

(2) Any person who, without reasonable cause or excuse, fails to comply with a summons issued under paragraph (1)(a) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

8. Appeal

(1) Any person who feels aggrieved by a decision of the Officer in Charge under section 7(1)(c) may, within 21 days of the communication of the decision to him, appeal to the Minister, in writing, stating the reasons for the appeal.

(2) The Minister may, on appeal, vary or confirm the decision of the Officer in Charge.

9. Offences

(1) Any person who contravenes sections 4, 5 or 6 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) Where a licensee has been convicted under this Act, the Court may, in addition to the penalty provided under subsection (1), revoke or suspend his licence.

10. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide –

- (a) for the prescribing of forms;
- (b) for the prescribing of the procedure for an application for a licence;
- (c) for the levying of fees and furnishing of security;
- (d) for the amendment of the Schedule;
- (e) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

11. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

SCHEDULE
(section 2)

The British Council
Any diplomatic mission in Mauritius
