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1973



Employment Agencies Act 1973

CHAPTER 35

ARRANGEMENT OF SECTIONS

Section

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SCHEDULE—Repeals.

ELIZABETH II



Employment Agencies Act 1973

1973 CHAPTER 35

An Act to regulate employment agencies and businesses; and for connected purposes. [18th July 1973] A.D. 1973

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Licences

1.—(1) Subject to subsections (2) and (3) of this section, no person shall carry on an employment agency or an employment business at any premises after the date on which this section comes into force unless he is the holder of a current licence from the licensing authority authorising him to carry on such an agency or such a business at those premises. Employment agencies and businesses to be licensed.

(2) A person who has duly applied for a licence under this Act before the date mentioned in the foregoing subsection shall not be precluded by that subsection from carrying on an employment agency or an employment business after that date—

(a) until the commencement of the licence ; or

(b) if the application is refused, until the time for appealing against the refusal has expired and, if such an appeal is duly brought, until the time when it is disposed of.

(3) A person who, on the date mentioned in subsection (1) of this section, is carrying on an employment agency or an employment business under the authority of a licence granted under an enactment repealed by or under this Act may, so long as he complies with any conditions subject to which the licence

has been granted, continue to carry on that business under the authority of that licence until the licence expires.

(4) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Grant of
licences, etc.

2.—(1) (a) An applicant for a licence under this Act shall, not less than twenty-one days before making his application—

(i) display notice of the application in a place where it can conveniently be read by the public on or near the premises at which the employment agency or employment business is or is to be carried on and take such steps as he reasonably can to keep that notice so displayed for a period of twenty-one days ; and

(ii) advertise notice of the application in a newspaper approved by the licensing authority :

Provided that this paragraph shall not apply where the applicant is the holder of a current licence or a person who is carrying on an employment agency or an employment business under the authority of a licence granted under an enactment repealed by or under this Act and the carrying on of the employment agency or employment business at the premises in question is authorised by that licence.

(b) A notice under paragraph (a) of this subsection—

(i) shall state the name and address of the applicant ; and

(ii) shall state the situation of the premises at which the employment agency or employment business is or is to be carried on and the class of business carried on or to be carried on at those premises.

(c) An application for a licence shall not be entertained by the licensing authority unless it is made in the prescribed manner and is accompanied—

(i) by the prescribed particulars ; and

(ii) where paragraph (a) of this subsection applies, by a certificate, signed by or on behalf of the applicant, stating that he has complied with that paragraph and a copy of the newspaper containing notice of the application.

(2) Subject to the provisions of this section, the licensing authority shall, as soon as reasonably practicable after the receipt of an application for a licence and on payment of the prescribed fee, grant a licence to any person who duly applies for one.

(3) An application for a licence in respect of an employment agency or an employment business may be refused on any of the following grounds, that is to say—

- (a) that the applicant is an individual under the age of twenty-one years ;
- (b) that the applicant is a person who on account of misconduct or for any other sufficient reason is unsuitable to hold a licence in respect of an agency or business of the class in question ;
- (c) that any person (other than the applicant) who is or is to be concerned with the carrying on of the employment agency or employment business is a person who on account of misconduct or for any other sufficient reason is unsuitable to be associated with an agency or business of the class in question ;
- (d) that the premises at which the employment agency or employment business is or is to be carried on are unsuitable in respect of an agency or business of the class in question ;
- (e) that the employment agency or employment business has been or is being improperly conducted.

(4) The licensing authority shall, within seven days after making a decision on an application for a licence, give notice in writing of the decision to the applicant and such notice shall state, in the case of a decision to refuse a licence, the grounds for the refusal.

(5) Unless revoked under the subsequent provisions of this Act, a licence shall continue in force for one year (or such longer period, not exceeding five years, as the licensing authority may specify in any particular case) beginning with the date specified therein for its commencement :

Provided that where the holder of a licence in respect of any premises has duly applied before its expiry for a further licence in respect of those premises, the previous licence shall not expire until the commencement of the further licence or, if the application is refused, until the time for appealing against the refusal has expired and, if such an appeal is duly brought, until it is disposed of.

(6) Where the holder of a licence dies, it shall be deemed to have been transferred on his death, if he was the sole holder, to his personal representatives and, if he was a joint holder, to the surviving holder or holders.

(7) It shall be the duty of the holder of a licence under this Act, within one month of any change in the particulars accompanying the application for that licence under subsection (1) of this section, to give to the licensing authority

notice in writing of the change and any person who fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100:

Provided that nothing in this subsection shall be taken as authorising the holder of a licence to carry on any business otherwise than in accordance with the provisions of the licence.

(8) Every licence granted under this Act shall be endorsed with notice of the effect of subsection (7) of this section.

Revocation of licences.

3.—(1) A licence under this Act may be revoked by the licensing authority on any of the grounds specified in section 2(3) of this Act.

(2) The licensing authority shall not act under subsection (1) of this section unless they have given not less than one month's notice in writing to the holder of the licence of the grounds on which they propose to revoke the licence and, if the holder makes representations in writing to the licensing authority within one month of the date on which the notice is given or such longer period as the licensing authority may allow, the licensing authority shall have regard to those representations.

(3) On deciding to act under subsection (1) of this section the licensing authority shall give notice in writing of their decision to the holder of the licence stating the grounds for the revocation.

(4) The revocation of a licence by the licensing authority shall not take effect until the time for appealing against the decision of the licensing authority has expired and, if such an appeal is duly brought, until it is disposed of.

Appeals.

4.—(1) Any person who is aggrieved by a decision of the licensing authority—

(a) refusing to grant him a licence ; or

(b) revoking a licence of which he is the holder,

may appeal in the prescribed manner giving the prescribed particulars, to the Secretary of State.

(2) An appeal under subsection (1) of this section against any decision shall be brought within twenty-one days of the date on which notice of the decision was given in accordance with the foregoing provisions of this Act.

(3) The Secretary of State may, in such cases as he considers it appropriate to do so, having regard to the nature of the questions which appear to him to arise, direct that an appeal under subsection (1) of this section shall be determined on his behalf by a person appointed by him for the purpose.

(4) Before the determination of an appeal the Secretary of State shall ask the appellant and the licensing authority whether they wish to appear and be heard on the appeal and—

- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid ;
- (b) the Secretary of State shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.

(5) The Tribunals and Inquiries Act 1971 shall apply to a hearing held by a person appointed in pursuance of subsection (3) of this section to determine an appeal as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State included a reference to a decision taken on his behalf by that person. 1971 c. 62.

(6) A person who determines an appeal under subsection (1) of this section on behalf of the Secretary of State and the Secretary of State, if he determines such an appeal, may give such directions as he considers appropriate to give effect to his determination.

Conduct of employment agencies and employment businesses

5.—(1) The Secretary of State may make regulations to secure the proper conduct of employment agencies and employment businesses and to protect the interests of persons availing themselves of the services of such agencies and businesses, and such regulations may in particular make provision— General regulations.

- (a) requiring persons carrying on such agencies and businesses to keep records ;
- (b) prescribing the form of such records and the entries to be made in them ;
- (c) prescribing qualifications appropriate for persons carrying on such agencies and businesses ;
- (d) regulating advertising by persons carrying on such agencies and businesses ;
- (e) safeguarding clients' money deposited with or otherwise received by persons carrying on such agencies and businesses ;
- (f) regulating the provision of services by persons carrying on such agencies and businesses in respect of persons who seek employment outside the United Kingdom or of persons normally resident outside the United Kingdom who seek employment in the United Kingdom ;

- (g) regulating the provision of services by persons carrying on such agencies and businesses in respect of persons who are under the age of eighteen years or are undergoing full-time education:

Provided that regulations under this section shall not make provision for regulating or restricting the charging of fees to employers by persons carrying on such agencies and businesses.

(2) Any person who contravenes or fails to comply with any regulation made under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Restriction on charging persons seeking employment, etc.

6.—(1) Except in such cases or classes of case as the Secretary of State may prescribe, a person carrying on an employment agency or an employment business shall not demand or directly or indirectly receive from any person any fee for finding him employment or for seeking to find him employment.

(2) Any person who contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Display of licences, etc.

7.—(1) The holder of a licence under this Act in respect of any employment agency or employment business shall keep displayed on the premises to which the licence relates in such a position that it can be readily seen by persons resorting to those premises—

(a) the licence ; and

(b) a copy of any regulations under this Act which apply to the employment agency or employment business.

(2) Any person who fails to comply with this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Supplementary provisions

Annual reports and information.

8.—(1) Every licensing authority shall, as soon as practicable after 31st December in each year, send to the Secretary of State a report on the exercise of their functions under this Act during that year, being a report containing particulars with respect to such matters arising thereunder as may be prescribed.

(2) A copy of every report made in pursuance of subsection (1) of this section by a licensing authority shall be kept at their offices, shall be open to inspection by any person at all reasonable hours free of charge and shall be supplied to any person on payment of a reasonable charge therefor.

(3) A licensing authority shall give to the Secretary of State such information with respect to the exercise of their functions under this Act as he may from time to time require.

9.—(1) Any officer of a licensing authority duly authorised by them in that behalf may at all reasonable times on producing, if so required, written evidence of his authority—

- (a) enter any premises used or to be used for or in connection with the carrying on of an employment agency or employment business by a person who is the holder of, or who has applied for, a licence under this Act and any other premises which the officer has reasonable cause to believe are used for or in connection with the carrying on of an employment agency or employment business ; and
- (b) inspect those premises and any records or other documents kept in pursuance of this Act or of any regulations made thereunder ; and
- (c) subject to subsection (2) of this section, require any person on those premises to furnish him with such information as he may reasonably require for the purpose of ascertaining whether the provisions of this Act and of any regulations made thereunder are being complied with or of enabling the licensing authority to exercise their functions under this Act.

(2) A person shall not be required under paragraph (c) of subsection (1) of this section to answer any question tending to incriminate himself or, in the case of a person who is married, his or her wife or husband.

(3) Any person who obstructs an officer in the exercise of his powers under paragraph (a) or (b) of subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and any person who, without reasonable excuse, fails to comply with a requirement under paragraph (c) of that subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(4)(a) No information obtained in the course of exercising the powers conferred by subsection (1) of this section shall be disclosed except—

- (i) with the consent of the person by whom the information was furnished or, where the information was furnished on behalf of another person, with the consent of that other person or with the consent of the person carrying on or proposing to carry on the employment agency or employment business concerned ; or
- (ii) to a licensing authority, or to the officers or servants of a licensing authority, for the purposes of the exercise of their respective functions under this Act ; or
- (iii) by the officers of a licensing authority, for the purposes of the exercise of their functions under this Act, to

the person carrying on or proposing to carry on the employment agency or employment business concerned, to any person in his employment or, in the case of information relating to a person availing himself of the services of such an agency or business, to that person ; or

- (iv) to the Secretary of State, or an officer or servant appointed by, or person exercising functions on behalf of, the Secretary of State for the purposes of the exercise of their respective functions under this Act ; or
- (v) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to or arising out of this Act or for the purposes of any hearing on an appeal brought under subsection (1) of section 4 of this Act.

(b) Any person who contravenes paragraph (a) of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Fraudulent applications and entries.

10.—(1) Any person who for the purpose of procuring the grant of a licence under this Act—

- (a) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular ; or
- (b) produces, furnishes, sends or otherwise makes use of a document which he knows is false in a material particular or recklessly produces, furnishes, sends or otherwise makes use of a document which is false in a material particular,

shall be guilty of an offence.

(2) Any person who makes or causes to be made or knowingly allows to be made any entry in a record or other document required to be kept in pursuance of this Act or of any regulations made thereunder which he knows to be false in a material particular shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £400.

Offences by bodies corporate.

11. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

12.—(1) Subject to the next following subsection, the Secretary of State shall have power to make regulations for prescribing anything which under this Act is to be prescribed. Regulations and orders.

(2) The Secretary of State shall not make any regulations under this Act except after consultation with such bodies as appear to him to be representative of the interests concerned.

(3) Regulations under this Act may make different provision in relation to different cases or classes of case.

(4) The power of the Secretary of State to make regulations and orders under this Act shall be exercisable by statutory instrument.

(5) A statutory instrument containing regulations under this Act, or an order under section 14(3) of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

13.—(1) In this Act—

Interpretation.

“ current licence ” means a licence granted under this Act which has not expired and which has not been revoked ;

“ employment ” includes—

(a) employment by way of a professional engagement or otherwise under a contract for services ;

(b) the reception in a private household of a person under an arrangement whereby that person is to assist in the domestic work of the household in consideration of receiving hospitality and pocket money or hospitality only ;

and “ worker ” and “ employer ” shall be construed accordingly ;

“ employment agency ” has the meaning assigned by subsection (2) of this section but does not include any arrangements, services, functions or business to which this Act does not apply by virtue of subsection (7) of this section ;

“ employment business ” has the meaning assigned by subsection (3) of this section but does not include any arrangements, services, functions or business to which this Act does not apply by virtue of subsection (7) of this section ;

“ fee ” includes any charge however described ;

“ holder ” in relation to a licence includes a person to whom it is deemed to have been transferred under section 2(6) of this Act ;

“licensing authority” means—

(a) as respects premises in a London borough, the council of that borough ;

(b) as respects premises in the City of London, the Inner Temple or the Middle Temple, the Common Council of that City ;

(c) as respects premises in a metropolitan district, the council of that district ;

(d) as respects premises in a non-metropolitan county, the council of that county ;

(e) as respects premises in a county in Wales, the council of that county ;

(f) in relation to Scotland, as respects premises situated in a large burgh, within the meaning of the Local Government (Scotland) Act 1947, the council of that burgh, and, in any other case, the council of the county in which the premises are situated ;

1947 c. 43.

“local authority”, in relation to England and Wales, means a county council, the Greater London Council, the Common Council of the City of London, a district council or a London borough council and, in relation to Scotland, means a county council, a town council or a district council ;

“organisation” includes an association of organisations ;

“organisation of employers” means an organisation which consists wholly or mainly of employers and whose principal objects include the regulation of relations between employers and workers or organisations of workers ;

“organisation of workers” means an organisation which consists wholly or mainly of workers and whose principal objects include the regulation of relations between workers and employers or organisations of employers ;

“prescribed” means prescribed by regulations made under this Act by the Secretary of State ;

1894 c. 60.

“seaman” has the same meaning as in the Merchant Shipping Act 1894.

(2) For the purposes of this Act “employment agency” means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of providing services (whether by the provision of information or otherwise) for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them.

(3) For the purposes of this Act “employment business” means the business (whether or not carried on with a view to

profit and whether or not carried on in conjunction with any other business) of supplying persons in the employment of the person carrying on the business, to act for, and under the control of, other persons in any capacity.

(4) The reference in subsection (2) of this section to providing services does not include a reference—

- (a) to publishing a newspaper or other publication unless it is published wholly or mainly for the purpose mentioned in that subsection ;
- (b) to the display by any person of advertisements on premises occupied by him otherwise than for the said purpose ; or
- (c) to broadcasting by wireless telegraphy (within the meaning of the Wireless Telegraphy Act 1949), whether 1949 c. 54. by way of sound broadcasting or of television.

(5) For the purposes of section 269 of the Local Government Act 1972, this Act shall be deemed to have been passed after 1st April 1974. 1972 c. 70.

(6) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment.

(7) This Act does not apply to—

- (a) any business which is carried on exclusively for the purpose of obtaining employment for—
 - (i) persons formerly members of Her Majesty's naval, military or air forces ; or
 - (ii) persons released from a prison, Borstal institution, detention centre or young offenders' institution ;and which is certified annually by or on behalf of the Admiralty Board of the Defence Council, the Army Board of the Defence Council or the Air Force Board of the Defence Council or by the Secretary of State (as the case may be) to be properly conducted ;
- (b) any agency for the supply of nurses as defined in section 8 of the Nurses Agencies Act 1957 or section 32 of the Nurses (Scotland) Act 1951 ; 1957 c. 16. 1951 c. 55.
- (c) the business carried on by any county or district nursing association or other similar organisation, being an association or organisation established and existing wholly or mainly for the purpose of providing patients with the services of a nurse to visit them in their own homes without herself taking up residence there ;

- (d) services which are ancillary to the letting upon hire of any aircraft, vessel, vehicle, plant or equipment ;
- (e) the making of arrangements for finding seamen for persons seeking to employ seamen or for finding employment for seamen ;
- (f) the exercise by a local authority of any of their functions ;
- (g) services provided by any organisation of employers or organisation of workers for its members ;
- (h) services provided by an appointments board or service controlled by—
 - (i) one or more universities ;
 - (ii) a central institution as defined in section 145 of the Education (Scotland) Act 1962 or a college of education as defined in the said section 145 ;
- (i) any business carried on, or any services provided by, such persons or classes of persons as may be prescribed :

1962 c. 47.

Provided that paragraph (b) of this subsection shall not be taken as exempting from the provisions of this Act any other business carried on in conjunction with an agency for the supply of nurses.

(8) Subsection (7)(c) of this section shall have effect in its application to Scotland as if at the end there were added the words “ or mainly or substantially supported by voluntary subscriptions and providing patients with the services of a nurse whether or not the nurse takes up residence in the patient’s house ”.

Short title,
repeals,
commence-
ment and
extent.

14.—(1) This Act may be cited as the Employment Agencies Act 1973.

(2) The enactments specified in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The Secretary of State may, after consultation with such bodies as appear to him to be concerned, by order repeal any provision of any local Act, being a provision which is not specified in Part II of the said Schedule and which appears to him to be unnecessary having regard to the provisions of this Act, or to be inconsistent with the provisions of this Act, and may by that order make such amendments of that or any other local Act as appear to him to be necessary in consequence of the repeal and such transitional provision as appears to him to be necessary or expedient in connection with the matter.

(4) This Act shall come into force on such date as the Secretary of State may by order appoint, and different dates may be appointed for different provisions and for different purposes.

(5) This Act does not extend to Northern Ireland.

SCHEDULE

Section 14.

REPEALS

PART I

PUBLIC GENERAL ACTS

Chapter	Short Title	Extent of Repeal
7 Edw. 7. c. 53.	The Public Health Acts Amendment Act 1907.	Section 85.

PART II

LOCAL ACTS

Chapter	Short Title	Extent of Repeal
11 & 12 Geo. 5. c. 1.	The London County Council (General Powers) Act 1921.	In section 4, the definition of "employment agency" and "licensing authority". Part III.
14 & 15 Geo. 5. c. xc.	The Manchester Corporation Act 1924.	Section 91.
15 & 16 Geo. 5. c. cxv.	The Surrey County Council Act 1925.	Part V.
16 & 17 Geo. 5. c. lxxxv.	The Guildford Corporation Act 1926.	Part IX.
17 & 18 Geo. 5. c. lxxxviii.	The Liverpool Corporation Act 1927.	Part XII.
18 & 19 Geo. 5. c. lxxxvii.	The Sheffield Corporation Act 1928.	Part XVI.
20 & 21 Geo. 5. c. cxix.	The Leeds Corporation Act 1930.	Part IX.
20 & 21 Geo. 5. c. clxxiv.	The Cardiff Corporation Act 1930.	Part XI.
20 & 21 Geo. 5. c. clxxxvi.	The Bootle Corporation Act 1930.	Part II.
21 & 22 Geo. 5. c. cix.	The Brighton Corporation Act 1931.	Part XXIV.
22 & 23 Geo. 5. c. lxix.	The Bury Corporation Act 1932.	Part XI.
23 & 24 Geo. 5. c. xlv.	The Essex County Council Act 1933.	Part V.
25 & 26 Geo. 5. c. cxiii.	The Hertfordshire County Council Act 1935.	Part V.
25 & 26 Geo. 5. c. cxxii.	The Birmingham Corporation Act 1935.	Part VIII.
25 & 26 Geo. 5. c. cxxiv.	The Newcastle-upon-Tyne Corporation (General Powers) Act 1935.	Part IV.
1 Edw. 8 & 1 Geo. 6. c. xxxv.	The West Ham Corporation Act 1937.	Part V.
7 & 8 Geo. 6. c. xxi.	The Middlesex County Council Act 1944.	Part XIV.

Chapter	Short Title	Extent of Repeal
10 & 11. Geo. 6. c. xviii.	The Inverness Burgh Order Confirmation Act 1947.	Part II of the Schedule.
11 & 12 Geo. 6. c. xli.	The Ipswich Corporation Act 1948.	Part IX.
7 & 8 Eliz. 2. c. xxxiii.	The Reading and Berk- shire Water &c. Act 1959.	Part VIII.
8 & 9 Eliz. 2. c. iii.	The Glasgow Corporation Consolidation (General Powers) Order Confir- mation Act 1960.	Sections 53 to 56 of the Sched- ule.
8 & 9 Eliz. 2. c. xl.	The Croydon Corpora- tion Act 1960.	Part X.
1967 c. v.	The Edinburgh Corpora- tion Order Confir- mation Act 1967.	Sections 377 to 381 of the Sched- ule.
1971 c. xliv.	The Teeside Corporation (General Powers) (No. 2) Act 1971.	Sections 33 to 40.
1971 c. lx.	The Torbay Corporation (No. 2) Act 1971.	Sections 67 to 74.

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