



# Employment Agencies Act 1973

## 1973 CHAPTER 35

### *Supplementary provisions*

#### **8 Annual reports and information**

- (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 Inspection**

- (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.

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- (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.

## **10 Fraudulent applications and entries**

- (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.

## **11 Offences by bodies corporate**

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 Regulations and orders**

- (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.
- (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 Interpretation**

- (1) In this Act—
- " 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 ;

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" 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 ;

" 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 ;

" 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 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.

(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 ;

(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:

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 ".

## **14 Short title, repeals, commencement and extent**

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

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- (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.