



**Isle of Man**

*Ellan Vannin*

**AT 20 of 1975**

**EMPLOYMENT AGENCIES ACT 1975**





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## EMPLOYMENT AGENCIES ACT 1975

*Received Royal Assent:* 17 September 1975  
*Passed:* 21 October 1975  
*Commenced:* 21 October 1975<sup>1</sup>

AN ACT to regulate employment agencies and businesses; and for connected purposes.

### GENERAL NOTES

1. The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993 s 1*.
2. References to a Board of Tynwald are to be construed in accordance with the *Government Departments Act 1987 s 7*.

### *Licences*

#### **1 Employment agencies and businesses to be licensed**

[P1973/35/1]

- (1) Subject to subsection (2) below, 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.
- (2) A person who has duly applied for a licence under this Act before the date mentioned in subsection (1) above shall not be precluded by that subsection from carrying on an employment agency or any employment business after that date —
  - (a) until the commencement of the licence; or
  - (b) if the application is refused, until the time for appealing to the Tribunal against the refusal has expired and, if such an appeal is duly brought, until the time when it is disposed of.<sup>1</sup>

<sup>1</sup> [EDITORIAL NOTE: See endnote to section 14 for the temporal effect of this Act.]

- (3) Any person who contravenes subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

## 2 Grant of licences, etc

The Schedule to this Act shall have effect in relation to the granting of licences under this Act and to the other matters specified in that Schedule.

## 3 Revocation of licences

[P1973/35/3]

- (1) A licence under this Act may be revoked by the licensing authority on any of the grounds specified in paragraph 5 of the Schedule to this Act.
- (2) The licensing authority shall not act under subsection (1) above unless it has given not less than one month's notice in writing to the holder of the licence of the grounds on which it proposes 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) above, the licensing authority shall give notice in writing of its decision to the holder of the licence stating the grounds for the revocation.
- (4) The revocation of a licence by the licensing authority shall take place —
- (a) unless an appeal is duly made to the Tribunal, when the time for appealing to the Tribunal has expired; or<sup>2</sup>
  - (b) on the withdrawal of the appeal to the Tribunal; or<sup>3</sup>
  - (c) on the expiration of the time, subsequent to the determination of the appeal by the Tribunal, within which an appeal to the Staff of Government Division may be duly made,<sup>4</sup>

whichever first occurs, or, if a further appeal is duly made to the Staff of Government Division, until that appeal is withdrawn or determined, whichever first occurs.

## 4 Appeals

[P1973/35/4]

- (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 Tribunal.<sup>5</sup>

- (2) An appeal under subsection (1) above 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 provisions of this Act.
- (3) Before the determination of an appeal, the Tribunal 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 Tribunal shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of doing so.<sup>6</sup>
- (4) The Tribunal shall state in writing the reasons for its determination and may give such directions as it considers appropriate to give effect to its determination, and, subject to subsection (5) below, any such determination shall be final.<sup>7</sup>
- (5) An appeal shall lie, in accordance with rules of court, to the Staff of Government Division from a determination of the Tribunal under this section where that determination involves a question of law.<sup>8</sup>

*Conduct of employment agencies and employment businesses*

## **5 General regulations**

[P1973/35/5]

- (1) The Department 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 those regulations may, in particular, make provision —
  - (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 Island or of persons normally resident outside the Island who seek employment in the Island;

- (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,

but 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.<sup>9</sup>

- (2) Any person who contravenes or fails to comply with any regulation made under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

## 6 Restriction on charging persons seeking employment, etc

[P1973/35/7]

- (1) Except in such cases or classes of case as the Department 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.<sup>10</sup>
- (2) Any person who contravenes this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

## 7 Display of licences, etc

[P1973/35/7]

- (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 shall be liable on summary conviction to a fine not exceeding £5,000.

## 8 Inspection

[P1973/35/9]

- (1) Any officer duly authorised by the licensing authority 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) below, 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 its functions under this Act.<sup>11</sup>
- (2) A person shall not be required under subsection (1)(c) above 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) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000, 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 shall be liable on summary conviction to a fine not exceeding £1,000.
- (4) No information obtained in the course of exercising the powers conferred by subsection (1) above shall be disclosed except —
- (a) 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
  - (b) to the licensing authority or the Department, or the Tribunal, or to the officers or servants of the Department, for the purposes of the exercise of their respective functions under this Act; or<sup>12</sup>
  - (c) by the officers of the Department, for the purposes of the exercise of its 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<sup>13</sup>
  - (d) 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 section 4(1) or (5) of this Act.
- (5) Any person who contravenes subsection (4) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

## 9 Fraudulent applications and entries

[P1973/35/10]

- (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 £5,000.

## 10 Offences by bodies corporate

[P1973/35/11]

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.

## 11 Regulations

[P1973/35/12]

- (1) Subject to subsection (2) below, the Department may make regulations for prescribing anything which under this Act is to be, or may be, prescribed.<sup>14</sup>
- (2) The Department shall not make any regulations under this Act except after consultation with such bodies as appear to it to be representative of the interests concerned.<sup>15</sup>
- (3) Regulations under this Act may make different provision in relation to different cases or classes of case.
- (4) Regulations under this Act shall not have effect until they have been approved by Tynwald.

## 12 Interpretation

[P1973/35/13(1) to (6)]

(1) In this Act —

“**the Board**” [Repealed]<sup>16</sup>

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

“**the Department**” means the Department for Enterprise;<sup>17</sup>

“**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 —
  - (i) hospitality; or
  - (ii) hospitality and pocket money; or
  - (iii) board and lodging for a nominal sum;

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

“**employment agency**” has the meaning assigned by subsection (2) below but does not include any arrangements, services, functions or business to which this Act does not apply by virtue of section 13 of this Act;

“**employment business**” has the meaning assigned by subsection (3) below but does not include any arrangements, services, functions or business to which this Act does not apply by virtue of section 13 of this Act;

“**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 paragraph 8 of the Schedule to this Act;

“**the licensing authority**” means the Department;<sup>18</sup>

“**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;

“**seaman**” has the same meaning as in the Merchant Shipping Act 1894 (an Act of Parliament);

“**the Tribunal**” means the Work Permit Appeal Tribunal constituted in accordance with section 13 of the *Control of Employment Act 2014*.<sup>19</sup>

- (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) above to providing services does not include a reference to —
  - (a) publishing a newspaper or other publication unless it is published wholly or mainly for the purpose mentioned in that subsection;
  - (b) the display by any person of advertisements on premises occupied by him otherwise than for the said purpose; or
  - (c) providing a programme service (within the meaning of Part 1 of the *Broadcasting Act 1993*);<sup>20</sup>
- (5) 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.

### 13 Savings

[P1973/35/13(7)]

- (1) Subject to subsection (2) below, this Act does not apply to —
  - (a) a nurses’ agency which is registered under the *Regulation of Care Act 2013*;<sup>21</sup>
  - (b) 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;
  - (c) services which are ancillary to the letting upon hire of any aircraft, vessel, vehicle, plant or equipment;
  - (d) the making of arrangements for finding seamen for persons seeking to employ seamen or for finding employment for seamen;
  - (e) the exercise by a local authority of any of its functions;
  - (f) services provided by any organisation of employers or organisation of workers for its members;
  - (g) services provided by a Board of Tynwald;

- (h) any business carried on, or any services provided by, such persons or classes of persons as may be prescribed.
- (2) Subsection (1)(a) above shall not be taken as exempting from the provision of this Act any other business carried on in conjunction with an agency for the supply of nurses.

#### **14 Short title and commencement**

- (1) This Act may be cited as the Employment Agencies Act 1975.
- (2) This Act shall, subject to subsection (3) below, come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.
- (3) This section shall take effect on the coming into operation of this Act and the other provisions of this Act shall take effect on such day as the Governor may by order appoint.<sup>22</sup>



## SCHEDULE

### GRANT OF LICENCES, ETC.

Sections 2, 3 and 12 [P1973/35/2]

1. (1) Subject to sub-paragraph (2) below, an applicant for a licence under this Act shall —
  - (a) not less than forty-two days before making his application, serve on the licensing authority notice, in a form approved by that authority, of his intention to make the application; and
  - (b) 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 two newspapers approved by the licensing authority.
- (2) Sub-paragraph (1) above shall not apply where the applicant is the holder of a current licence and the carrying on of the employment agency or employment business at the premises in question is authorised by that licence.
2. A notice under paragraph 1 above shall —
  - (a) state the name and address of the applicant; and
  - (b) 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.
3. An application for a licence shall not be entertained by the licensing authority unless it is made in the prescribed manner and is accompanied —
  - (a) by the prescribed particulars; and
  - (b) where paragraph 1 above 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.
4. Subject to the provisions of this Schedule, 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.

5. 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.

6. 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 that notice shall state, in the case of a decision to refuse a licence, the grounds for the refusal.

7. (1) Unless revoked under section 3 of this Act, a licence shall, subject to subparagraph (2) below, 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.

(2) Where the holder of a licence in respect of any premises has duly applied, not less than seven nor more than twenty-eight days 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 to the Tribunal against the refusal has expired and, if such an appeal is duly brought, until it is disposed of.<sup>23</sup>

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

9. (1) It shall be the duty of the holder of a licence under this Act, before making any change in the particulars which accompanied the application for that licence under paragraph 3 above, to give to the licensing authority notice in writing of the proposed change and to obtain that authority's consent to making the change, and any person who fails to comply with this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(2) Nothing in sub-paragraph (1) above 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.

10. Every licence granted under this Act shall be endorsed with notice of the effect of paragraph 9 above.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

- 
- <sup>1</sup> Para (b) amended by Employment Agencies (Amendment) Act 1981 Sch.
- <sup>2</sup> Para (a) amended by Employment Agencies (Amendment) Act 1981 Sch.
- <sup>3</sup> Para (b) amended by Employment Agencies (Amendment) Act 1981 Sch.
- <sup>4</sup> Para (c) amended by Employment Agencies (Amendment) Act 1981 Sch.
- <sup>5</sup> Subs (1) amended by Employment Agencies (Amendment) Act 1981 s 1.
- <sup>6</sup> Subs (3) amended by Employment Agencies (Amendment) Act 1981 s 1.
- <sup>7</sup> Subs (4) amended by Employment Agencies (Amendment) Act 1981 s 1.
- <sup>8</sup> Subs (5) amended by Employment Agencies (Amendment) Act 1981 s 1.
- <sup>9</sup> Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- <sup>10</sup> Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- <sup>11</sup> Subs (1) amended by GC141/90.
- <sup>12</sup> Para (b) amended by Employment Agencies (Amendment) Act 1981 Sch and by Health and Social Security Act 1986 Sch 2.
- <sup>13</sup> Para (c) amended by Health and Social Security Act 1986 Sch 2.
- <sup>14</sup> Subs (1) amended by Health and Social Security Act 1986 Sch 2.
- <sup>15</sup> Subs (2) amended by Health and Social Security Act 1986 Sch 2.
- <sup>16</sup> Definition of “the Board” repealed by Health and Social Security Act 1986 Sch 3.
- <sup>17</sup> Definition of “the Department” substituted by GC141/90 and amended by SD155/10 Sch 2 and by SD2017/0325.
- <sup>18</sup> Definition of “the licensing authority” substituted by Statute Law Revision Act 1989 Sch 1.

<sup>19</sup> Definition of “the Tribunal” inserted by Employment Agencies (Amendment) Act 1981 Sch and amended by Tribunals Act 2006 Sch 3 and by Control of Employment Act 2014 Sch 2.

<sup>20</sup> Para (c) substituted by Broadcasting Act 1993 Sch 4.

<sup>21</sup> Para (a) substituted by Regulation of Care (Amendment) Act 2020 s 3.

<sup>22</sup> ADO all provisions except section 1 in operation 1/2/1978, section 1 in operation on 1/4/1978 (GC34/78).

<sup>23</sup> Subpara (2) amended by Employment Agencies (Amendment) Act 1981 Sch.