

RECRUITING OF WORKERS ACT

CHAPTER 88:10

Act
29 of 1938

Amended by
3 of 2007

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Note on Adaptation

1. Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to LN 51/1980 (the Legal Notice by which the President's approval was signified).

2. Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by LN 52/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

CHAPTER 88:10

RECRUITING OF WORKERS ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
 2. Interpretation.
 3. Exemptions.
 4. Persons who recruit to be licensed.
 5. *(Repealed by Act No. 3 of 2007).*
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 7. Expenses of workers.
 8. Return of workers to their homes.
 9. Worker-recruiters.
 10. Offences.
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CHAPTER 88:10

RECRUITING OF WORKERS ACT

An Act to regulate the recruiting of workers.

1950 Ed.
Ch. 22 No. 7.
29 of 1938.
Commencement.

[1ST SEPTEMBER 1939]

Short title. **1.** This Act may be cited as the Recruiting of Workers Act.

Interpretation. **2.** (1) In this Act—
“Convention” means the Convention concerning the Regulation of Certain Special Systems of Recruiting Workers adopted by the International Labour Conference in June, 1936;
“licensing officer” means the person appointed by the Minister to be a licensing officer for the purposes of this Act;
“licensee” means the holder of a licence under this Act;
“worker” means a person who is intended to be employed in work of any kind, whether manual or clerical, and whether within or without Trinidad and Tobago;
“worker-recruiter” means a person who, being employed as a worker, is authorised in writing by his employer to recruit other workers on behalf of his employer, but who does not receive any remuneration or other advantages for the recruiting.

(2) A person recruits within the meaning of this Act who by himself or through others procures, engages, hires or supplies or undertakes or attempts to procure, engage, hire or supply workers for the purpose of being employed by himself or by any other person, so long as the worker does not spontaneously offer his services at the place of employment or at a public emigration or employment office or at an office conducted by an employers’ organisation and supervised by the Government.

Exemptions. **3.** This Act does not apply to—
(a) the recruiting of workers within Trinidad for employment therein, or within Tobago for employment therein; or

(b) the recruiting of personal or domestic servants or non-manual workers for employment in Trinidad and Tobago,

or to any workers so recruited, unless the recruiting is done by professional recruiting agents.

4. (1) Subject to subsection (7) no person shall recruit workers unless he is licensed in that behalf under this Act; but the licensing officer may accept as equivalent to a licence issued by him a licence issued by the competent authority of the territory of employment.

Persons who recruit to be licensed.

(2) Every person desirous of obtaining a licence under this section shall apply to the licensing officer who may in his discretion issue a licence—

- (a) if he is satisfied that the applicant is a fit and proper person to be granted a licence;
- (b) if the prescribed security has been furnished; and
- (c) if he is satisfied that adequate provision has been made for safeguarding the health and welfare of the workers to be recruited.

(3) A licence shall not be transferable and shall be subject to such conditions as shall be prescribed.

(4) No licence shall be issued for a period exceeding one year, but it may be renewed if the licensing officer is satisfied that the conditions on which it was granted have been complied with.

(5) The licensing officer may cancel any licence in any case where the licensee has been convicted of an offence under this Act or the Regulations made thereunder or has not complied with the conditions under which it was granted or is guilty of conduct which in the opinion of the licensing officer renders him no longer a fit and proper person to hold a licence. The licensing officer may also suspend any licence pending the decision of the Court or the making of any enquiry which he considers necessary.

(6) Any person aggrieved by any decision of the licensing officer under this section may appeal to the Minister.

(7) This section does not apply to worker-recruiters.

5. (Repealed by Act No. 3 of 2007).

Examination of workers.

- 6. (1)** Recruited workers shall—
- (a) be brought before a Magistrate; and
 - (b) be medically examined,

in accordance with Regulations made under this Act.

(2) The Magistrate before whom any recruited worker is brought shall satisfy himself that this Act and the Regulations made thereunder have been observed and that the worker has not been subjected to pressure or recruited by misrepresentation or mistake.

Expenses of workers.

7. The expenses of the journey of recruited workers and their families to the place of employment, including all expenses incurred for their protection during the journey, shall be borne, and necessities for the journey shall be provided, by the recruiter (not being a worker-recruiter) or employer in accordance with Regulations made under this Act.

Return of workers to their homes.

- 8.** A recruited worker who—
- (a) becomes incapacitated by sickness or accident during the journey to his place of employment;
 - (b) is found on medical examination to be unfit for employment;
 - (c) is not engaged after being recruited for a reason for which he is not responsible; or
 - (d) is found by a Magistrate to have been recruited by pressure or by misrepresentation or mistake,

and the family of such recruited worker, and the family of a recruited worker who dies during the journey to the place of employment, shall be returned to their homes at the expense of

the recruiter or employer in accordance with Regulations made under this Act.

9. This Act and the Regulations made thereunder shall, unless otherwise expressly provided, apply to worker-recruiters as if they were licensees except that worker-recruiters shall recruit only in such areas as may be prescribed and shall not make advances of wages to recruited workers.

Worker-recruiters.

10. Any person who acts in contravention of this Act, or the Regulations made thereunder, is liable on summary conviction to a fine of four thousand dollars and to imprisonment for six months.

Offences.

11. (1) The Minister may make Regulations, not inconsistent with this Act, for the purpose of giving effect thereto, or to any of the provisions of the Convention; and without prejudice to the generality of the foregoing power he may by regulation provide for—

Power to make Regulations.

- (a) the manner and form in which application shall be made for licences, the particulars to be furnished upon every such application, the conditions under which any licence may be issued, the form of licences, the fees payable therefor and the particulars to be set forth therein;
- (b) the security to be furnished by applicants for licences;
- (c) the records to be kept by licensees;
- (d) the remuneration to be paid to the agents of licensees;
- (e) the restriction of recruiting to certain areas;
- (f) the supervision of worker-recruiters;
- (g) the documents to be given to the recruited worker by the licensee;
- (h) the provision of transport for recruited workers and their families from the place of recruitment to the place of employment;

- (i) the amount of wages which may be paid in advance to recruited workers, and the conditions under which advances of wages may be made;
- (j) anything which by this Act is to be prescribed, or as to which regulations are to be made.

(2) Regulations made under this Act shall be subject to affirmative resolution of Parliament.

(3) The Recruitment of Workers Regulations (formerly appearing in a Schedule to this Act) shall be deemed to be Regulations made under this section and may be amended or revoked under this section.

SUBSIDIARY LEGISLATION

RECRUITING OF WORKERS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Control of economic development likely to involve recruiting of labour.
3. Welfare of the population to be considered before granting permission to recruit labour.
4. Provisions relating to the family of the recruited worker.
5. Grouping of workers under ethnical conditions.
6. Employment of juveniles.
7. Information to be supplied to workers of conditions of employment.
8. Transport facilities to be provided.
9. Travelling and maintenance expenses to be defrayed by the recruiter or employer.
10. Care and repatriation of worker's family.
11. Medical examination of recruited workers.
12. Records to be kept.
13. Licensee's assistants to obtain a permit.
14. Area in which worker-recruiters may operate.
15. Advance against wages.
16. Licence fees.
17. Amount of security bond.
18. Form of bond.

SCHEDULE.

[Subsidiary]

29 of 1938.
(Sch.).

RECRUITING OF WORKERS REGULATIONS

deemed to be made under section 11

Citation.

1. These Regulations may be cited as the Recruiting of Workers Regulations.

Control of economic development likely to involve recruiting of labour.

2. Any person who desires to carry out in any area any scheme of economic development which is likely to involve the recruiting of labour shall first obtain the written permission of the licensing officer who shall ensure that such measures as may be practicable and necessary shall be taken—

- (a) to avoid the risk of pressure being brought to bear on the populations concerned by or on behalf of the employers in order to obtain the labour required;
- (b) to ensure that, as far as possible, the political and social organisation of the populations concerned and their powers of adjustment to the changed economic conditions will not be endangered by the demand for labour; and
- (c) to deal with any other possible untoward effects of such development on the populations concerned.

Welfare of the population to be considered before granting permission to recruit labour.

3. (1) Before granting permission to recruit labour in any area, the licensing officer shall take into consideration the possible effects of the withdrawal of adult males on the social life of the population concerned, and in particular shall consider—

- (a) the density of the population, its tendency to increase or decrease, and the probable effect upon the birth rate of the withdrawal of adult males;
- (b) the possible effects of the withdrawal of adult males on the health, welfare and development of the population concerned, particularly in connection with the food supply;
- (c) the dangers to the family and morality arising from the withdrawal of adult males; and

(d) the possible effects of the withdrawal of adult males on the social organisation of the population concerned.

(2) The licensing officer may, in order to safeguard the populations concerned against any untoward consequences of the withdrawal of adult males, fix the maximum number of adult males who may be recruited in any given social unit in such manner that the number of adult males remaining in the unit does not fall below a prescribed percentage of the normal proportion of adult males to women and children.

4. (1) The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

Provisions relating to the family of the recruited worker.

(2) The licensing officer may take the necessary measures to encourage recruited workers to be accompanied by their families, more particularly in the case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods exceeding one year.

(3) Except at the express request of the persons concerned, recruited workers shall not be separated from wives and minor children who have been authorised to accompany them to, and to remain with them at, the place of employment.

(4) In default of agreement to the contrary before the departure of the worker from the place of recruiting, an authorisation to accompany a worker shall be deemed to be an authorisation to remain with him for the full duration of his term of service.

5. The licensing officer may make it a condition of permitting recruiting that the recruited workers shall be grouped at the place of employment under suitable ethical conditions.

Grouping of workers under ethical conditions.

6. No juvenile between the ages of fourteen and eighteen shall be recruited except with the consent of his parents or guardian and provided the conditions of employment are stated in writing and approved by the Magistrate of the district in which he

Employment of juveniles.

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is recruited or to be employed and the Magistrate must satisfy himself that the work is suitable and that the welfare of the juvenile is sufficiently safeguarded.

Information to be supplied to workers of conditions of employment.

7. The licensing officer may, as a condition of granting a licence, require the issue to each recruited worker who is not engaged at or near the place of recruiting of a document in writing such as a memorandum of information, a work book or a provisional contract containing such particulars as the authority may determine, as for example particulars of the identity of the workers, the prospective conditions of employment and any advances of wages made to the workers.

Transport facilities to be provided.

8. (1) The recruiter or employer shall whenever possible provide transport to the place of employment for recruited workers.

(2) The licensing officer shall take all necessary measures to ensure—

- (a) that the vehicles or vessels used for the transport of workers are suitable for the transport, are in good sanitary condition and are not overcrowded;
- (b) that when it is necessary to break the journey for the night suitable accommodation is provided for the workers; and
- (c) that in the case of long journeys all necessary arrangements are made for medical assistance and for the welfare of the workers.

(3) When recruited workers have to make a long journey on foot to the place of employment, the licensing officer shall take all necessary measures to ensure—

- (a) that the length of the daily journey is compatible with the maintenance of the health and strength of the workers; and
- (b) that, where the extent of the movement of labour makes this necessary, rest camps or rest houses are provided at suitable points on main routes and are kept in proper sanitary condition and have the necessary facilities for medical attention.

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(4) When recruited workers have to make long journeys in groups to the place of employment, they shall be conveyed by a responsible person.

9. (1) The expenses of the journey of recruited workers to the place of employment, including all expenses incurred for their protection during the journey, shall be borne by the recruiter or employer.

Travelling and maintenance expenses to be defrayed by the recruiter or employer.

(2) The recruiter or employer shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking water, fuel and cooking utensils, clothing and blankets.

(3) This section applies to workers recruited by worker-recruiters only when more than six workers are recruited together.

10. Where the families of recruited workers have been authorised to accompany the workers to the place of employment the Magistrate shall take all necessary measures for safeguarding their health and welfare during the journey and more particularly—

Care and repatriation of worker's family.

- (a) regulations 8 and 9 shall apply to such families;
- (b) in the event of the worker being repatriated by virtue of section 8 of the Act, his family shall also be repatriated; and
- (c) in the event of the death of the worker during the journey to the place of employment, his family shall be repatriated.

11. (1) Every recruited worker shall be medically examined.

Medical examination of recruited workers.

(2) Where the worker has been recruited for employment at a distance from the place of recruiting or has been recruited for employment beyond Trinidad and Tobago, the medical examination shall take place as near as may be convenient to the place of recruiting or, in the case of workers recruited for employment beyond Trinidad and Tobago, at latest at the place of departure from Trinidad and Tobago.

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(3) The Magistrate before whom workers are brought in pursuance of the Act may authorise the departure prior to medical examination of workers in whose case he is satisfied—

- (a) that it was and is impossible for the medical examination to take place near to the place of recruiting or at the place of departure;
- (b) that the worker is fit for the journey and the prospective employment; and
- (c) that the worker will be medically examined on arrival at the place of employment or as soon as possible thereafter.

(4) The Magistrate may, particularly when the journey of the recruited workers is of such duration and takes place under such conditions that the health of the workers is likely to be affected, require recruited workers to be examined both before departure and after arrival at the place of employment.

(5) The Magistrate shall ensure that all necessary measures are taken for the acclimatisation and adaptation of recruited workers and for their immunisation against disease.

Records to be kept.

12. Every licensee shall keep, in such form as may be prescribed, records from which the regularity of every recruiting operation can be verified and every recruited worker can be identified.

Licensee's assistants to obtain a permit.

13. (1) No person shall assist a licensee in a subordinate capacity in the actual recruiting operations unless he has been approved by the licensing officer and has been furnished with a permit by the licensee.

(2) Licensees shall be responsible for the proper conduct of the assistants.

Area in which worker-recruiters may operate.

14. Worker-recruiters may recruit only within Trinidad for employment therein, and within Tobago for employment therein.

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15. Any advance made to a worker before he takes up his employment shall not exceed an agreed month's wages, and not more than one-fourth of the advances shall be retained out of each month's wages. Advance against wages.

16. The following fees shall be paid to the Comptroller of Accounts for a recruiting licence, or for any renewal thereof, with respect to each period of twelve months or less, expiring on the 31st of December following the date of issue of the licence: Licence fees. [51/1980].

| | \$ |
|--|-----|
| (a) for recruiting workers within Trinidad for employment therein | 50 |
| (b) for recruiting workers within Tobago for employment therein | 25 |
| (c) for recruiting workers in Trinidad for Tobago or in Tobago for Trinidad ... | 100 |
| (d) for recruiting workers in Trinidad and Tobago for employment beyond Trinidad and Tobago | 200 |

However, whenever a licence authorises the recruiting of not more than one hundred workers, only one-half of the prescribed licence fee shall be paid.

17. Before a licence is issued, the licensee shall enter into a bond with sufficient sureties to the satisfaction of the licensing officer for such sum as the licensing officer shall determine having regard to the number of workers to be recruited, the nature of their employment and wages, and the places of their employment. Amount of security bond.

18. A bond entered into pursuant to regulation 17 shall be in the form given in the Schedule with such variations and additions as circumstances may require. Form of bond. Schedule.

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Regulation 18.

SCHEDULE

RECRUITING OF WORKERS ACT

BOND.

REPUBLIC OF TRINIDAD AND TOBAGO.

KNOW ALL MEN BY THESE PRESENTS THAT WE of, and, of, and, of, are held and firmly bound to the State in the sum of Dollars to be paid to the Comptroller of Accounts for which payment to be well and truly made we bind ourselves and each and any two of us, our and each and any two of our heirs, executors and administrators jointly and severally by these presents.

Dated this day of, 20.....

WHEREASof....., hereinafter called “the licensee” in obedience to the Recruiting of Workers Act, has applied for a licence to hire and engage workers, hereinafter called “the workers” for the purpose of being employed as workers in [name of country and place or locality within such country where work or service is to be rendered].

And whereas the licensing officer has consented to grant such licence as is required by the said Act upon the licensee entering into the above-written bond subject to the condition hereinafter mentioned.

Now therefore the condition of the above-written bond or obligation is such that if the licensee shall well and truly observe and perform all and every the provisions of the Recruiting of Workers Act, and all and every the conditions and stipulations in the contract to be made and entered into between the licensee and the workers in pursuance of and under the provisions of the said Act, and shall answer whenever so required and pay all damages and costs which shall or may be recovered by the workers or any of them in any action upon or for any breach of such contract, then the above-written bond or obligation shall be void, but otherwise the same shall remain in full force and virtue.

Signed and delivered by the licensee
in the presence of:

Name

Address

Occupation

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Signed and delivered by
in the presence of:

Name

Address

Occupation

Signed and delivered by
in the presence of:

Name

Address

Occupation
