

Queensland



ANNO TRICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

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No. 40 of 1983

**An Act to provide for the licensing and conduct of private employment agencies, to repeal certain provisions of the Labour and Industry Act 1946–1974 and for related purposes**

[ASSENTED TO 22ND APRIL, 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

**1. Short title.** This Act may be cited as the *Private Employment Agencies Act 1983*.

**2. Commencement.** (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided in subsection (1), this Act shall commence on a date appointed by Proclamation.

**3. Repeals.** The Acts specified in the following Table are repealed to the extent indicated therein:—

TABLE

Enactment repealed	Extent of repeal
<i>The Labour and Industry Act of 1946</i>	The balance thereof that has not been repealed already
<i>The Labour and Industry Act Amendment Act of 1952</i>	The balance thereof that has not been repealed already
<i>The Labour and Industry Acts Amendment Act of 1963</i>	The whole thereof

**4. Arrangement of Act.** This Act is arranged in Parts as follows:—

PART I—PRELIMINARY (ss. 1–5);

PART II—ADMINISTRATION (ss. 6–13);

PART III—LICENCES AND LICENSEES (ss. 14–31);

PART IV—MISCELLANEOUS PROVISIONS (ss. 32–45).

**5. Interpretation.** In this Act, unless the contrary intention appears—

“applicant employee” means a person who seeks employment through a private employment agency;

“applicant employer” means a person who seeks to employ labour through a private employment agency;

“holder” in relation to a licence, means the person to whom the licence is issued and includes a person to whom is issued a licence for a private employment exchange under the *Labour and Industry Act 1946–1974* while such a licence continues in force as prescribed by this Act;

“industrial magistrate” means an industrial magistrate within the meaning of the *Industrial Conciliation and Arbitration Act 1961–1982*;

- “ inspector ” means an inspector for the purposes of this Act and includes any person who under this Act has and may exercise all or any of the powers of an inspector;
- “ licence ” means a general licence, a probationary licence or a temporary licence provided for by this Act and includes a licence for a private employment exchange issued under the *Labour and Industry Act 1946–1974* while such a licence continues in force as prescribed by this Act;
- “ member of the Police Force ” means a member of the Police Force of the State of Queensland within the meaning of the *Police Act 1937–1980*;
- “ Minister ” means the Minister for Employment and Labour Relations or other Minister of the Crown charged with the administration of this Act and includes any person for the time being performing the duties of the Minister;
- “ the Industrial Court ” means the Industrial Court within the meaning of the *Industrial Conciliation and Arbitration Act 1961–1982*.
- “ the Under Secretary ” means the person holding the appointment of Under Secretary, Department of Employment and Labour Relations, or such other Department of the Government as may from time to time be charged with the administration of this Act and includes any person who from time to time acts in that appointment.

## PART II—ADMINISTRATION

**6. Administration.** This Act shall be administered by the Minister and, subject to the Minister and the Under Secretary, by the Commissioner for Training appointed for the purposes of the *Industry and Commerce Training Act 1979–1982* and the inspectors and other officers charged with the administration of this Act.

**7. Licensing officer and inspectors.** (1) The functions and powers of the licensing officer under this Act shall be performed and may be exercised by the person who for the time being holds or is acting in the office of the Commissioner for Training appointed for the purposes of the *Industry and Commerce Training Act 1979–1982*.

(2) A person who holds an appointment as the Commissioner for Training, Welfare Officer, Training Consultant or Commission Inspector for the purposes of the *Industry and Commerce Training Act 1979–1982* shall, without further appointment, be an inspector for the purposes of this Act.

**8. Evidence of authority.** (1) Every inspector shall be issued with evidence of his authority in the form prescribed.

(2) An inspector shall produce to a person whom he wishes to interview and question the evidence of his authority upon demand made by that person.

- 9. Powers and duties of inspectors.** (1) An inspector may—
- (a) subject to subsection (3), enter any place that he has a bona fide interest in entering for the purposes of this Act;
  - (b) make with respect to any place such examination or enquiry as he considers to be necessary to ascertain whether the provisions of this Act are being complied with;
  - (c) interview any employee found in any place entered by him, in the presence of the licensee or other person or alone;
  - (d) search for and require the production of any register, record, book, document, correspondence or other writing with respect to the business of a private employment agency and inspect, examine and make copies of or extracts from any such register, record, book, document, correspondence or other writing;
  - (e) seize and retain any register, record, book, document, correspondence or other writing found by him or produced to him that he considers will afford evidence as to the commission of an offence against this Act suspected by him on reasonable grounds to have been committed;
  - (f) question an employer or person in charge in any place entered by him for the purposes of this Act, with respect to matters to which this Act applies and require that employer or person to answer every question concerning such matters put to him; and
  - (g) call to his aid—
    - (i) another inspector or a member of the Police Force; or
    - (ii) any person who in his opinion is competent to assist him in the exercise of his powers under this Act.

(2) An inspector, if he is not the person for the time being performing the functions of the licensing officer, and an officer charged with the administration of this Act shall report to the person for the time being performing the functions of the licensing officer every contravention of or failure to comply with a provision of this Act as soon as is practicable after it comes to his knowledge.

(3) The power of an inspector to enter any place does not extend to his entering any premises that are used or any part of premises that is used exclusively as a dwelling-house unless he has—

- (a) obtained from the occupier of those premises or that part his permission to the inspector's entry; or
- (b) obtained from a justice a warrant to enter those premises or that part.

For the purposes of this subsection premises used as a dwelling-house do not include the curtilage of any premises.

(4) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect that—

- (a) in any place there is a register, record, book, document, correspondence or other writing or anything that would assist in establishing whether an offence against this Act has been, is being or is likely to be committed; or



- (b) in any place an offence against this Act has been, is being or is likely to be committed,

may issue his warrant, directed to that inspector, to enter the place specified in the warrant for the purpose of exercising therein all or any of the powers conferred on an inspector by this Act.

For one month from the date of its issue a warrant shall be sufficient authority for the inspector to whom it is directed and to all persons acting in aid of him—

- (a) to enter the place specified in the warrant; and  
(b) to exercise therein all or any of the powers conferred on an inspector by this Act.

(5) For the purposes of gaining entry to any place that he is authorized by or under this Act to enter an inspector and all persons acting in aid of him may use such force as is necessary.

(6) Subject to this subsection, an inspector shall not disclose to any person information that he has acquired in the exercise of his powers or the performance of his duties.

The preceding paragraph does not operate to prevent the disclosure of information—

- (a) for the purposes of this Act and in the performance of an inspector's duties under this Act;  
(b) with the prior permission of the Minister; or  
(c) ordered by a court or other tribunal duly constituted pursuant to any law to be disclosed for the purposes of a proceeding before that court or tribunal.

**10. Powers of persons acting in aid.** A person who is acting in aid of an inspector for the purposes of this Act shall have and may exercise all or any of the powers conferred on an inspector by this Act.

**11. Offences relating to inspectors etc.** A person shall not—

- (a) assault, threaten, obstruct, hinder, abuse, insult or intimidate or attempt so to do an inspector or other person who is performing his functions or duties or exercising his powers under this Act or is attempting so to do;  
(b) fail to answer any question asked of him for the purposes of this Act by an inspector or furnish a false or misleading answer to any such question;  
(c) when required by or under this Act to furnish information, fail to do so or furnish information that is false or misleading;  
(d) when required by an inspector to produce any register, record, book, document, correspondence or other writing, such as is referred to in section 9 (1), fail to do so;  
(e) fail to allow an inspector to make a copy of or an extract from any register, record, book, document, correspondence or other writing, such as is referred to in section 9 (1);  
(f) prevent or attempt to prevent, directly or indirectly, a person from appearing before and being questioned by an inspector; or

- (g) fail to comply with a requisition of an inspector made under this Act.

**12. Answers and information given under compulsion.** A person is not entitled to refuse to comply with a requisition directed to him—

- (a) to answer a question on any matter to which this Act applies; or  
(b) to produce any register, record, book, document, correspondence or other writing,

on the ground that the answer or production would tend to incriminate him but any answer made by him or matter produced by him after objection taken on that ground shall not be admissible in evidence against him in proceedings taken against him for an offence.

**13. Annual report.** (1) As soon as practicable after the end of each financial year and not exceeding in any case a period of three months thereafter the person for the time being performing the functions of the licensing officer shall cause a report on the operation of this Act throughout that year to be prepared and furnished to the Minister.

(2) A report prepared pursuant to subsection (1) shall include such statement of account and other financial and other relevant information as is prescribed.

(3) The Minister shall lay every report furnished to him pursuant to subsection (1) before the Legislative Assembly within 14 sitting days after its receipt by him.

### PART III—LICENCES AND LICENSEES

**14. Private employment agents and agencies.** (1) For the purposes of this Act and subject to this section, a person who—

- (a) holds himself out to be an agent ready, for reward, to procure—  
(i) employment for persons seeking it; or  
(ii) employees for persons seeking to employ others; or  
(b) holds himself out to be an agent ready, whether for reward or not, to place persons in employment and in respect thereof to charge the person placed in employment or the employer of that person an entrance fee or any other fee or charge by whatever name called,

shall be taken to carry on the business of private employment agency and to be a private employment agent.

(2) The provisions of subsection (1) do not apply to the publisher of any newspaper or other publication that provides a service as an intermediary between persons seeking employment and persons seeking to employ others if the newspaper or other publication is not published, solely or principally, for the purpose of providing that service.

(3) The provisions of subsection (1) do not apply to a person being an employer of any person by reason only of his providing the services of his employee to another person to perform a task of temporary

duration in return for a payment at a predetermined rate agreed upon between the employer and that other person if—

- (a) the employer remains solely responsible for the payment of wages to his employee and the performance of all other lawful obligations owed by him as employer to his employee; and
- (b) no fee or charge is payable by the employee in relation to his performance of such task.

**15. Types of licences.** (1) The licences that may be granted under this Act are—

- (a) a general licence;
- (b) a probationary licence; and
- (c) a temporary licence.

(2) A general licence shall be authority for the holder thereof to carry on the business of a private employment agency and to be a private employment agent throughout the State or, where a part of the State is specified in the licence as the area within which the licence is to have effect, throughout that part of the State.

(3) A probationary licence shall be authority for the holder thereof to carry on business as prescribed by subsection (2) but only for a period not exceeding 12 months from the date of its issue.

(4) A temporary licence shall be issued only as a substitute for a general licence or a probationary licence held by a person who—

- (a) has died;
- (b) is out of Queensland;
- (c) is unable from any other cause, to carry on the business of a private employment agency under the authority of the general licence or, as the case may be, probationary licence,

and shall be authority for the holder thereof to carry on the business of a private employment agency and to be a private employment agent for a period not exceeding three months or until the time at which the licence for which it is a substitute would expire by effluxion of time, whichever period is the shorter, at or from premises at or from which the holder of the licence for which it is a substitute is or was authorized to carry on that business.

**16. Conditions for issue of licence.** (1) A licence shall not be issued to any person unless—

- (a) he is a natural person; and
  - (b) the premises where he proposes to carry on the business of private employment agency is situated in the State and conforms with all requirements prescribed for such premises.
- (2) A general licence shall not be issued to any person unless—
- (a) he has resided in the State for a period of not less than six months immediately preceding the date of his application for a licence; and

(b) he has complied with all other requirements prescribed for an applicant for a general licence.

(3) If an applicant for a general licence cannot be issued with a general licence by reason only that he lacks the residential qualification prescribed by subsection (2) he shall be entitled to be issued with a probationary licence.

**17. Business to be carried on subject to licence.** (1) A person shall not—

- carry on,
- advertise that he carries on            or
- hold himself out as carrying on

the business of a private employment agency unless he is the holder of a licence.

This subsection does not apply to a member of a partnership that carries on the business of a private employment agency who is not the holder of a licence if any other member of the partnership is the holder of a licence and the business carried on under the authority of the licence is carried on in accordance with subsection (3).

(2) A person shall not advertise, notify or publish a statement to the effect that the business of a private employment agency is carried on by or on behalf of any body corporate or partnership unless a person who is the holder of a licence issued to him as the nominee of that body corporate or partnership is—

- (a) an officer of that body corporate;
- (b) a member of that partnership; or
- (c) an employee of that body corporate or partnership.

(3) The holder of a licence shall carry on the business of a private employment agency—

- (a) in the name (whether his name, the name of a body corporate or a partnership of which he is a nominee or a business name) specified for that purpose in the licence and in no other name;
- (b) at or from a place of business specified for that purpose in the licence and no other place;
- (c) during the period for which the licence remains in force and at no other time.

(4) A person who contravenes any provision of this section commits an offence against this Act and is liable to a penalty not exceeding \$2 000.

**18. Application for licence.** (1) An application for a licence shall be made in the prescribed form and manner to the person for the time being performing the functions of the licensing officer and shall be accompanied by the prescribed fee.

(2) A person who has made an application for a licence other than a temporary licence shall, within 14 days after he has made the application, publish in a newspaper that circulates throughout Queensland and,

if the person for the time being performing the functions of the licensing officer so requires it, in a newspaper that circulates throughout the district in which are situated the premises at or from which the business of a private employment agency is to be carried on under the authority of the licence, notice of his application in the prescribed form that specifies—

- (a) the full name and residential address of the proposed holder of the licence;
- (b) where the application is made by or on behalf of a body corporate or partnership, the name in which that body corporate or partnership carries on business and the address of its principal place of business;
- (c) the location of the premises at or from which the business of a private employment agency is to be carried on under the authority of the licence;
- (d) that objections to his application may be lodged in accordance with section 19 of this Act;
- (e) an address at which objections to his application may be served on him personally; and
- (f) such other particulars as are prescribed,

and shall lodge with the person for the time being performing the functions of the licensing officer a copy of the newspaper or newspapers in which the notice of his application has been published.

**19. Objections to issue of licences.** (1) A person who wishes to object to the issue of a licence, other than a temporary licence, to an applicant or intending applicant shall, within 14 days after publication of the notice referred to in section 18, lodge with the prescribed person a notice in writing of his objection, which shall particularize the grounds for the objection in sufficient detail to enable the applicant or intending applicant to know what is the allegation that he has to answer, and shall cause a copy of that notice to be given to the applicant or intending applicant and to the person for the time being performing the functions of the licensing officer.

A notice of objection that does not contain the matter required by this subsection shall be of no effect and shall be disregarded.

(2) In subsection (1) the expression “the prescribed person” means the clerk of the court for the Magistrates Court District in which are situated the premises where the business of a private employment agency is to be carried on and where in respect of any such district there is more than one such clerk, means the clerk of the court for that district who is stationed nearest to the premises where the business of a private employment agency is to be carried on.

**20. Disposal of applications.** (1) Every application for a licence, other than a temporary licence, shall be referred to the clerk of the court for the Magistrates Court District in which are situated the premises where the business of a private employment agency for which the licence is sought is to be carried on.

Where an objection against the issue of a licence, other than a temporary licence, in a particular case has been lodged with a clerk of the court in accordance with section 19 the application for a licence in that case shall be referred to the same official.

(2) The clerk of the court to whom an application for a licence is referred shall arrange with a Stipendiary Magistrate a suitable time and place at which an inquiry into the matter of the application will be held and shall give notice in writing of that time and place to—

the applicant,

the person for the time being performing the functions of the licensing officer, and

where an objection has been duly made in relation to that application, the objector.

(3) At the time and place so notified and at any other time and place to which the inquiry is from time to time adjourned (whether before or after commencement of the inquiry) and of which notice has been given to the parties the Stipendiary Magistrate shall enquire—

(a) whether the applicant or, where there is more than one applicant, each of them is a fit and proper person to be the holder of a licence, having regard to his character, reputation, previous conduct and all objections (if any) duly lodged in relation to the applicant or any of them; and

(b) where the application is made by an applicant as a nominee of a body corporate or partnership, whether the body corporate or partnership is a fit and proper person or body to be associated with the carrying on of the business of a private employment agency, having regard to its repute and all objections (if any) duly lodged in relation to it.

Each of the following persons—

an applicant,

an objector

the person for the time being performing the functions of the licensing officer,

shall be taken to be a party to such inquiry and shall be entitled to be present or to be represented thereat and to be heard.

(4) The Stipendiary Magistrate shall furnish to the person for the time being performing the functions of the licensing officer his determination upon the inquiry.

If the Stipendiary Magistrate determines that the applicant, or any of them, is not a fit and proper person to be the holder of a licence or to be associated with the carrying on of the business of a private employment agency, a licence shall not be issued upon the application and in that case the prescribed fee paid upon the application shall be refunded to whomsoever paid it.

(5) In a case to which the second paragraph of subsection (4) does not apply the person for the time being performing the functions of the

licensing officer shall issue to the applicant the appropriate licence if he is satisfied that the provisions of this Act relevant to the application in question or to the applicant have been complied with.

**21. Procedure for licence on behalf of body corporate or partnership.**

(1) Where it is proposed that a business of a private employment agency be carried on by a body corporate or a partnership a natural person shall be appointed by that body corporate or the members of that partnership to be the holder of a licence as the nominee of that body corporate or partnership.

(2) The application for a licence in any such case—

- (a) may be made by the proposed holder of the licence or by or on behalf of the body corporate or partnership concerned;
- (b) shall state the name and principal place of business of the body corporate or partnership concerned; and
- (c) shall state the name and principal place of business of the proposed holder of the licence and any other place or places of business of the proposed holder of the licence; and
- (d) shall specify such other particulars as are prescribed.

(3) For the purpose of the application of sections 18, 19 and 20 in a case referred to in this section it shall be deemed that the application is made by each of them—

- (a) the proposed holder of the licence sought and the body corporate whose nominee he is; or, as the case may be,
- (b) the proposed holder of the licence sought and the members of the partnership whose nominee he is:

Provided that this subsection shall not be construed to require publication by more than one person of the notice referred to in section 18.

**22. Licences issued for use by body corporate or partnership.** (1) Any licence issued upon an application referred to in section 21 shall be issued to and in the name of the natural person appointed pursuant to section 21 (1) who shall become and be the holder of the licence.

Every such licence shall specify therein the name of the body corporate or partnership of which the holder of the licence is nominee.

(2) A licence may be issued to each of two or more persons as nominees of the same body corporate or partnership.

(3) Where the holder of a licence issued upon an application referred to in section 21 was at the time of its issue an employee of the body corporate or partnership of which he is nominee the licence may be transferred by the person for the time being performing the functions of the licensing officer, with the approval only of that body corporate or the members of that partnership, to any person appointed by that body corporate or those members to be the holder of the licence if that person has been approved pursuant to section 20 as a fit and proper person to be holder of a licence.

Upon such transfer the transferee shall become and be the holder of the licence as nominee of the body corporate or partnership concerned in place of the person who was the holder immediately prior to the transfer.

**23. Duration of licence.** Unless it sooner ceases to operate by reason of cancellation or suspension a licence shall continue in force until 31 May next following the date of its issue.

**24. Renewal of licence.** (1) The holder of a licence, other than a temporary licence, who wishes to renew it shall submit his application for renewal thereof to the person for the time being performing the functions of the licensing officer no later than 1 March in each year.

In the case of a licence held by a person as nominee of a body corporate or partnership the provisions of section 21 (2) and (3) shall apply in relation to an application for its renewal as they applied to an application for its issue in the first instance.

(2) An application for renewal of a licence shall be in the prescribed form, shall contain the prescribed information and shall be accompanied by the prescribed fee.

(3) Upon receipt of an application for renewal that complies with this Act the person for the time being performing the functions of the licensing officer may renew the licence without further investigation unless in his opinion—

- (a) there is evidence that warrants a further investigation; or
- (b) there is sufficient reason to refuse the application.

(4) Where the person for the time being performing the functions of the licensing officer proposes not to renew a licence he shall give notice in writing to the applicant and therein specify the reasons for his decision.

**25. Referral of application to clerk of the court.** (1) Within 28 days from the day on which a notice referred to in section 24 (4) is received or is to be deemed to have been received by him, and no later, an applicant for renewal of a licence may by notice in writing require the person for the time being performing the functions of the licensing officer to refer his application for renewal of the licence to the clerk of the court for the Magistrates Court District in which are situated the premises at or from which the business of a private employment agency was carried on under the authority of the licence or, where in respect of any such district there is more than one such clerk, to the clerk of the court for that district who is stationed nearest to such premises.

A requisition duly made under this subsection shall be complied with.

(2) The provision of section 20 (2), (3) and (4) shall with all necessary modifications apply in respect of an application referred to a clerk of the court pursuant to subsection (1).

**26. Duration of renewed licence.** A renewal of a licence shall be deemed to take effect on 1 June next following the making of application for renewal and unless it sooner ceases to be in force by reason of



cancellation or suspension a licence renewed shall continue in force until 31 May next following the date of its renewal.

**26A. Published list of licensed holders.** As soon as is practicable after 1 June in each year the person for the time being performing the functions of the licensing officer shall cause to be published in the Gazette a list of the names of all persons who hold licences as at 1 June last preceding and of the places of business at or from which business is or is to be carried on by such holders under the authority of the licences.

**27. Replacement licence.** (1) The person for the time being performing the functions of the licensing officer may, upon the request of the holder of a licence and payment of the prescribed fee, if he is satisfied that the licence issued has been lost or destroyed, issue a replacement licence to the same holder.

(2) A replacement licence shall bear the same endorsement as the licence that has been lost or destroyed and shall for all purposes replace that licence, which shall cease to be in force upon the issue of the replacement licence.

**28. Cancellation and suspension of licence.** (1) Where—

- (a) the holder of a licence has been convicted of an offence against this Act; or
- (b) it appears to the person for the time being performing the functions of the licensing officer that the holder of a licence may not be a fit and proper person to carry on the business of private employment agency,

the person for the time being performing the functions of the licensing officer may, by notice in writing given to the holder of the licence, call upon the holder to show cause to him at a time and place specified in the notice why the licence should not be cancelled.

(2) Where the holder of a licence, other than a temporary licence, has died the person for the time being performing the functions of the licensing officer may, by notice in writing given to his legal personal representative or to such other person as in that person's opinion has an interest in maintaining the licence, call upon the legal personal representative or such other person to show cause to him at a time and place specified in the notice why the licence should not be cancelled.

(3) If the holder of a licence, legal personal representative or other person called upon under this section fails to show cause (sufficient in the opinion of the person for the time being performing the functions of the licensing officer) at the time and place so specified or at any time and place to which the matter may have been adjourned and notified to him, the person performing the functions of the licensing officer may by his order cancel the licence or suspend it for a specified period.

Cause may be shown for the purposes of this subsection by the person called upon to show cause in person or in writing.

(4) Subject to section 29, a licence cancelled by order made under subsection (3) shall cease to be in force and a licence suspended by order made under subsection (3) shall cease to be in force for the period of such suspension.

**29. Appeal against cancellation or suspension.** (1) Where an order for cancellation or suspension of a licence has been made under section 28 the person for the time being performing the functions of the licensing officer shall give notice in writing to the person called upon to show cause and shall specify in the notification the reasons for his making the order.

(2) An order made under section 28 shall not take effect until 28 days from the day on which the notification referred to in subsection (1) is received or is to be deemed to have been received by the person called upon to show cause (whichever is the earlier) and, if a requisition referred to in subsection (3) is duly made in relation to that order, shall not then take effect unless and until it is confirmed by order of the Stipendiary Magistrate who hears the reference instituted under this section pursuant to the requisition.

(3) Within 28 days from the day on which a notification referred to in subsection (1) is received or is to be deemed to have been received by him, and no later, the person called upon to show cause may by notice in writing require the person for the time being performing the functions of the licensing officer to refer the matter of the order in question to the clerk of the court for the Magistrates Court District in which are situated the premises at or from which the business of a private employment agency is or was carried on under the authority of the licence to which the order relates or, where in respect of any such district there is more than one such clerk to the clerk of the court for that district who is stationed nearest to such premises.

A requisition made under this subsection shall be complied with.

(4) A clerk of the court to whom a matter is referred under subsection (3) shall arrange with a Stipendiary Magistrate a suitable time and place at which an inquiry into the matter of cancellation or suspension will be held and shall give notice in writing of that time and place to—

the person who has required the reference, and

the person for the time being performing the functions of the licensing officer,

each of whom shall be taken to be a party to such inquiry and shall be entitled to be present or to be represented thereat and to be heard.

Every such inquiry shall be conducted *de novo* at the time and place so notified and at any other time and place to which the inquiry is from time to time adjourned (whether before or after commencement of the inquiry) and of which notice has been given to the parties.

(5) The Stipendiary Magistrate, having regard to such matters as are raised by or on behalf of each party to the inquiry, may—

(a) confirm the order made under section 28;

(b) quash the order made under section 28; or

(c) vary the order made under section 28,

as he thinks fit.

(6) Where an order made under section 28 is varied pursuant to this section the order as so varied shall be deemed to be the order made under section 28 and shall take effect forthwith.

**30. Stipendiary Magistrate's decision final.** A decision of a Stipendiary Magistrate upon an inquiry concerning—

- (a) the issue or renewal of a licence; or
- (b) the cancellation or suspension of a licence,

shall be final and conclusive and shall not be appealed against, called in question or be made subject to a prerogative writ on any account whatever.

**31. Transitional provisions concerning existing licences.** (1) A person who at the date of commencement of this section is the holder of a licence for a private employment exchange issued under the provisions of the *Labour and Industry Act 1946-1974* that are repealed by section 3, if he wishes to carry on the business of private employment agency, shall within one month after the date of commencement of this section make application in accordance with this Act for a licence.

(2) An application for a licence under this section shall, subject to this section, be made as if it were an application for renewal of a licence and the provisions of this Act that relate to an application for renewal of a licence or to a renewal of a licence shall, subject as aforesaid, apply in respect of an application under this section and any licence granted thereon.

(3) A licence for a private employment exchange that is in force at the date of commencement of this section shall continue in force until—

- (a) the expiration of one month after that date; or
- (b) where an application has been made in accordance with subsection (1), the issue of a licence upon that application or the refusal of a licence upon that application, whichever event occurs.

(4) The fee payable upon an application under this section for a licence shall be the fee prescribed by this Act for renewal of a licence reduced by one-twelfth for each month that the licence for a private employment exchange would have continued in force after the date of commencement of this section until its expiration by effluxion of time had this Act not been passed.

#### PART IV—MISCELLANEOUS PROVISIONS

**32. Recovery of fees and charges.** (1) A private employment agent shall not demand or receive, either directly or indirectly, any entrance fee or other fee or charge, by whatever name called, or any expenses or reward of or from an applicant employee as a condition for that agent procuring or attempting to procure employment for the applicant employee.

(2) A private employment agent shall not be entitled to recover any fee, charge, expenses or reward in respect of his procurement of an employee for an applicant employer unless—

- (a) he has brought to the notice of the applicant employer a scale of fees and charges relevant to such procurement, which scale accords with subsection (3); and
  - (b) the amount of the fee, charge, expenses or reward agreed to by the applicant employer has been confirmed by the private employment agent in writing furnished to the applicant employer.
- (3) A scale of fees and charges shall set out clearly—
- (a) the maximum amount that is to be chargeable or the formula by which the maximum amount is to be assessed;
  - (b) where different rates of charge are relevant in different circumstances, the rates that are relevant in each case;
  - (c) the time for payment of the fees and charges;
  - (d) where the scale provides for payment of expenses—
    - (i) the fee or charge; and
    - (ii) the basis on which the expenses are to be assessed with particulars of any ancillary or administrative services to be charged for.

**33. Records to be kept and retained.** (1) The holder of a licence shall keep—

- (a) a register in which shall be entered the—
  - name,
  - place of residence,
  - age,
  - sex,
  - usual trade or occupation
 of every applicant employee and the nature of the employment sought by him and such other particulars as are prescribed;
- (b) a separate register in which shall be entered the—
  - name and
  - place of business
 of every applicant employer and the nature of the employment offered by him and such other particulars as are prescribed; and
- (c) a separate register of all engagement of labour secured through the private employment agency conducted by him and of such other particulars as are prescribed.

(2) The holder of a licence shall retain in his possession all registers kept by him pursuant to subsection (1) and all correspondence received

or entered into by him in the course of the business of a private employment agency carried on by him for a period of two years at least after—

- (a) in the case of a register, the expiration of the year to which the register relates; or
- (b) in the case of correspondence—  
the date it came into existence, where the correspondence was prepared by him; or the date it was received by him, where the correspondence was prepared by another person.

(3) The holder of a licence shall not make or cause to be made an entry that he knows to be false in a register kept by him pursuant to subsection (1).

(4) Upon being required in writing so to do by the person for the time being performing the functions of the licensing officer the holder of a licence shall furnish to that person, within the time specified in the requisition, a return of particulars entered in a register kept by the holder pursuant to subsection (1).

**34. False information not to be published.** The holder of a licence shall not—

- (a) publish or cause to be published any false information in the course of the business of a private employment agency carried on by him; or
- (b) make or permit to be made to any applicant employee a false statement concerning the nature or availability of any employment.

**35. Identification of agency in publications.** Every publication put out or authorized by or on behalf of a private employment agency shall contain the full name under which the agency is conducted and the address or telephone number of the premises at or from which the business of the agency is carried on.

Where a publication that does not comply with this section is put out or authorized by or on behalf of a private employment agency the holder of a licence who carries on the business of that agency shall be deemed to have put out or authorized the publication and to have thereby committed an offence against this Act.

**36. Premises to conform to standard.** The holder of a licence shall ensure that the premises where the business of a private employment agency is or is to be carried on conforms with the provisions of Rule 1—the General Rule under the *Factories and Shops Act 1960–1982*.

**37. General penalty.** (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person guilty of an offence against this Act is liable, if a specific penalty is not provided for by any other provision of this Act, to a penalty not exceeding \$1 000.

(3) A person who attempts to commit an offence against this Act commits an offence against this Act and is liable to the same penalty, whether prescribed by this or any other provision of this Act, as if he had actually committed the offence that he has attempted.

(4) An industrial magistrate who convicts a person of an offence against this Act may, instead of forthwith imposing a penalty in respect thereof, order that the matter of penalty be adjourned for a time specified in the order.

Where an order of adjournment is made under this subsection, the industrial magistrate who made the order may, upon the application of the person convicted, from time to time enlarge the time specified in the order or that time as last so enlarged if he thinks there is good reason for so doing.

Upon the expiration of the time specified in the order of adjournment or of that time as last enlarged pursuant to this subsection whichever is appropriate, unless an enlargement or further enlargement has been duly granted, and upon notice in writing of the time and place of hearing being given to the person convicted, the matter of imposition of penalty shall be brought before the industrial magistrate who made the order of adjournment for his determination and upon such determination—

(a) where it appears to the industrial magistrate that the matter of complaint has been rectified, he shall discharge the person convicted without imposing any penalty; or

(b) in any other case, he shall impose such penalty as appears to him to be just,

and in either case, he may make such order as to costs as he thinks fit.

**38. Responsibility for servants.** (1) Where the holder of a licence who has committed an offence against this Act holds the licence as a nominee of a body corporate or partnership and is a servant of that body corporate or partnership, the body corporate and each member of its board of management at the time the offence is committed or, as the case may be, each member of the partnership at the time the offence is committed shall be deemed to have committed the offence and to be the holder of the licence and proceedings may be brought against it or each or any of them accordingly in respect of the offence, whether or not the actual holder of the licence is prosecuted for the offence.

(2) It is a defence to a charge laid against any person by reason of subsection (1) if it is shown that the offence occurred without its or his knowledge and without negligence on its or his part.

(3) This section shall not be construed so as to relieve the actual offender of liability for his offence.

**39. Proceedings for offences.** (1) A prosecution for an offence against this Act shall be by way of summary proceedings before an industrial magistrate.

Jurisdiction is hereby conferred on every industrial magistrate to hear and determine such proceedings.

(2) A prosecution for an offence against this Act shall be commenced—

- (a) by complaint of an inspector or of any person authorized by the Minister or by the person for the time being performing the functions of the licensing officer; and
- (b) within one year after the matter of complaint arose or within six months after the matter of complaint came to the knowledge of the complainant, whichever period is the later to expire.

**40. Appeals from industrial magistrates.** A person aggrieved by any order of an industrial magistrate made in a proceeding under this Act who desires to appeal shall appeal to the Industrial Court.

Jurisdiction is hereby conferred on the Industrial Court to hear and determine such an appeal.

**41. Application of Industrial Conciliation and Arbitration Act.** The provisions of the *Industrial Conciliation and Arbitration Act 1961-1982* and of the Rules of Court made under that Act shall apply, subject to this Act, according to their tenor in relation to—

- (a) proceedings before an industrial magistrate under this Act; and
- (b) proceedings before the Industrial Court under this Act,

as if those proceedings were under the *Industrial Conciliation and Arbitration Act 1961-1982*.

**42. Consequences of convictions on licences.** (1) Whenever the holder of a licence is convicted of an offence against this Act his licence shall be endorsed with the following particulars:—

- the fact of the conviction,
- the date of the conviction,
- the nature of the offence concerned.

(2) Upon being required in writing by the person for the time being performing the functions of the licensing officer so to do the holder of a licence that is to be endorsed in accordance with subsection (1) shall produce his licence to that person or otherwise as required by the requisition.

**43. Evidentiary provisions.** In proceedings under this Act—

- (a) it shall not be necessary to prove the appointment of the person for the time being performing the functions of the licensing officer or of any other inspector;
- (b) a signature purporting to be that of the Minister, the person for the time being performing the functions of the licensing officer or any other inspector shall be taken to be the signature that it purports to be until the contrary is proved;

- (c) a document or writing purporting to be a duplicate or copy of a requisition issued or made or a notice issued by an inspector under this Act shall be primary evidence of the original thereof and in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (d) a document or writing purporting to be made by an inspector and to be a copy of or an extract from a register kept pursuant to this Act shall be primary evidence of the particulars in the register of which it purports to be a copy or extract;
- (e) the authority of a person to accept service of documents on behalf of another shall be presumed in the absence of evidence to the contrary.

**44. Service of documents.** (1) A requisition in writing or notice in writing required or authorized by this Act to be given to any person shall be taken to have been duly given if—

- (a) it is served personally on the person to whom it is directed or on a person authorized by that person, either generally or in a particular case, to accept service of documents on his behalf;
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it;
- (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives it.

(2) A requisition or notice shall be deemed to have been received by the person to whom it is directed—

- (a) where it has been given in the manner referred to in paragraph (a) of subsection (1), on the day it is served in accordance with that paragraph;
- (b) where it has been given in the manner referred to in paragraph (b) of subsection (1), on the day next following the day it is left at the place specified therein;
- (c) where it has been given in the manner referred to in paragraph (c) of subsection (1), unless the contrary is proved, at the time when it would be delivered in the ordinary course of post.

**45. Regulations.** The Governor in Council may make regulations not inconsistent with this Act prescribing with respect to—

- (a) fees payable under this Act and the purposes for which they are payable;
- (b) the form of and the manner of keeping registers required by this Act to be kept;
- (c) the form of returns required by or under this Act to be made and the nature of the particulars to be shown therein;
- (d) penalties for contraventions or failures to comply with the regulations, not exceeding \$200 in any case, and in the case of a contravention or failure to comply of a continuing nature



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prescribing a penalty not exceeding \$10 for each day on which the contravention or failure continues after an offender has been convicted in respect thereof;

- (e) all matters required or envisaged by this Act to be prescribed; and
  - (f) all matters that in the opinion of the Governor in Council are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.
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