



Number 27 of 1971

EMPLOYMENT AGENCY ACT 1971

REVISED

Updated to 30 June 2016

This Revised Act is an administrative consolidation of the *Employment Agency Act 1971*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 (4/2016)*, enacted 11 February 2016, and all statutory instruments up to and including *European Union (Restrictive Measures concerning Libya) (No. 2) Regulations 2016 (S.I. No. 342 of 2016)*, made 30 June 2016, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

The *Employment Agency Act 1971* is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1999, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012)
- *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004)
- *Protection of Employees (Fixed-Term Work) Act 2003* (29/2003)

All Acts up to and including *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (4/2016), enacted 11 February 2016, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Employment Agency Regulations 1993* (S.I. No. 49 of 1993)
- *Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993* (S.I. No. 18 of 1993)
- *Employment Agency Regulations 1988* (S.I. No. 319 of 1988)
- *Employment Agency Regulations 1978* (S.I. No. 288 of 1978)
- *Employment Agency Regulations 1976* (S.I. No. 318 of 1976)
- *Order Entitled Employment Agency (Exemption) Order 1972* (S.I. No. 257 of 1972)
- *Employment Agency Act, 1971 (Commencement) Order 1972* (S.I. No. 256 of 1972)
- *Employment Agency Regulations 1972* (S.I. No. 255 of 1972)

All statutory instruments up to and including *European Union (Restrictive Measures concerning Libya) (No. 2) Regulations 2016* (S.I. No. 342 of 2016), made 30 June 2016, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. General prohibition on unlicensed employment agencies.
3. Provisions regarding licence.
4. Revocation of licence.
5. Appeals against revocation of licence and refusal to grant licence.
6. Non-application of Act.
7. Fees, etc., of agencies.
8. General power to make regulations.
9. Power of entry inspection, etc.
10. Offences.
11. Laying of regulations before Houses of Oireachtas.
12. Repeal.
13. Expenses, etc.
14. Commencement.
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ACT REFERRED TO

1907, c. 53



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AN ACT TO PROVIDE FOR THE CONTROL AND REGULATION BY THE MINISTER FOR LABOUR OF EMPLOYMENT AGENCIES, TO MAKE PROVISION RELATING TO THE SEEKING OF PERSONS FOR EMPLOYMENT OUTSIDE THE STATE, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [24th November, 1971.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Functions transferred and terms “Department of Labour” and “Minister for Labour” construed (20.01.1993) by *Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993* (S.I. No. 18 of 1993), arts. 3, 4, and sch. pt. 1, subject to transitional provisions in arts. 5-9. Note that the name of the Minister for and Department of Industry and Commerce was changed:
- to the Minister for and Department of Enterprise and Employment (20.01.1993) by *Industry and Commerce (Alteration of Name of Department and Title of Minister) Order 1993* (S.I. No. 19 of 1993);
 - to the Minister for and Department of Enterprise, Trade and Employment (12.07.1997) by *Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 307 of 1997);
 - to the Minister for and Department of Enterprise, Trade and Innovation (2.05.2010) by *Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 185 of 2010); and
 - to the Minister for and Department of Jobs, Enterprise and Innovation (2.06.2011) by *Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 245 of 2011).

...

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are hereby transferred to the Department of Industry and Commerce.

(2) References to the Department of Labour contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Industry and Commerce.

4. (1) There are hereby transferred to the Minister for Industry and Commerce the functions vested in the Minister for Labour by or under:—

(a) any Act mentioned in the Schedule to this Order, and

...

(2) References to the Minister for Labour contained in any Act or instrument thereunder and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Industry and Commerce.

...

SCHEDULE

Part I

Acts functions under which are transferred from the Minister for Labour to the Minister for Industry and Commerce.

...

Employment Agency Act, 1971 (No. 27 of 1971).

...

Interpretation. **1.—(1) In this Act—**

“authorised officer” has the meaning assigned to it by section 9 of this Act;

F1[“employment agency” includes an employment agency within the meaning of the Protection of Employees (Temporary Agency Work) Act 2012;]

“the Minister” means the Minister for Labour;

“prescribed” means prescribed by regulations made by the Minister under this Act.

(2) For the purposes of this Act, the business of an employment agency means the business of seeking, whether for reward or otherwise, on behalf of others, persons who will give or accept employment, and includes the obtaining or supplying for reward of persons who will accept employment from or render services to others.

Annotations

Amendments:

- F1 Inserted (16.05.2013) by *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012), s. 16, commenced on enactment.

Editorial Notes:

- E1 Power pursuant to section exercised (1.03.1993) by *Employment Agency Regulations 1993* (S.I. No. 49 of 1993).
- E2 Power pursuant to section exercised (1.01.1989) by *Employment Agency Regulations 1988* (S.I. No. 319 of 1988).
- E3 Power pursuant to section exercised (18.10.1978) by *Employment Agency Regulations 1978* (S.I. No. 288 of 1978).
- E4 Power pursuant to section exercised (1.02.1977) by *Employment Agency Regulations 1976* (S.I. No. 318 of 1976).
- E5 Power pursuant to section exercised (1.11.1972) by *Employment Agency Regulations 1972* (S.I. No. 255 of 1972).

General prohibition on unlicensed employment agencies.

2.—A person shall not carry on the business of an employment agency except under and in accordance with a licence under this Act.

Provisions regarding licence.

3.—(1) A person proposing to carry on the business of an employment agency shall apply to the Minister for a licence under this Act, and shall cause to be published in not less than one daily newspaper circulating in the State a notice in the prescribed form of his intention so to apply.

(2) An application for a licence under this Act shall—

- (a) be made in the prescribed form,
- (b) contain the prescribed particulars, and
- (c) be accompanied by the prescribed fee.

(3) Where an application is made for a licence under this Act, the Minister shall grant the licence if—

- (a) he is satisfied that the premises conform to the prescribed standards of accommodation,
- (b) he is satisfied that the applicant conforms to the prescribed standards of suitability and fitness, and
- (c) the applicant has not been convicted of an offence under this Act in the period of 5 years ending on the date of the application.

(4) The Minister may prescribe the standards of accommodation in respect of premises for use for the business of an employment agency and the standards of suitability and fitness which he considers requisite in respect of an applicant for a licence under this Act.

(5) A licence under this Act shall be in the prescribed form and shall be subject to such conditions as the Minister specifies in the licence.

Annotations

Modifications (not altering text):

C2 Application of section restricted (17.10.1972) by *Employment Agency (Exemption) Order 1972* (S.I. No. 257 of 1972), reg. 2.

2. Exemption from section 3 of the *Employment Agency Act, 1971* (No. 27 of 1971), is hereby granted in respect of the carrying on of the business of an employment agency by the following when such business is not carried on for profit and a fee is not charged for any service rendered in the course of such business—

- (a) an organisation which has a special responsibility for, or the work of which is specifically devoted to, physically or mentally handicapped persons;
- (b) an educational or training establishment which as part of its operations helps to place in employment its pupils, graduates or trainees;
- (c) an organisation primarily engaged in charitable or social work;
- (d) a trade union or an organisation of employers.

Revocation of licence.

4.—Where the holder of a licence under this Act has been convicted of an offence under this Act or has given false information in an application under section 3 of this Act or where in the opinion of the Minister—

(a) the holder is no longer a suitable person to carry on the business of an employment agency, or

(b) the premises where the holder is carrying on the business of an employment agency no longer conform to the prescribed standards,

the Minister may revoke the licence.

Appeals against revocation of licence and refusal to grant licence.

5.—(1) Where the Minister proposes to revoke a licence under this Act, he shall duly notify the holder of the licence of his proposal, and the holder may appeal to the High Court against the Minister's proposal.

(2) Where the Minister refuses to grant a licence under this Act to an applicant for such a licence, he shall notify the applicant within 21 days of his decision, and the applicant may appeal to the High Court against the Minister's decision.

(3) On the hearing of an appeal under this section in relation to a proposal to revoke, or a refusal to grant, a licence the High Court may either confirm the proposal or refusal or allow the appeal and, where an appeal is allowed, the Minister, as may be appropriate, shall not revoke the licence or shall grant the licence.

(4) A decision of the High Court on an appeal under this section shall be final save that, by leave of that Court, an appeal from that decision shall lie to the Supreme Court on a specified question of law.

Non-application of Act.

6.—(1) This Act shall not apply to—

(a) any scheme or service relating to employment or the recruitment of staff and administered or operated by or under the direction of a Minister of State,

F2[(b) the holder of a recruitment licence under the *Public Service Management (Recruitment and Appointments) Act 2004*.]

(2) The Minister may, if he so thinks fit, by order grant exemption from this Act or a specified provision thereof in respect of the carrying on of the business of a particular class of employment agency.

(3) The Minister may by order revoke or amend an order under this section.

Annotations

Amendments:

F2 Substituted (with para. (c)) (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61(1) and sch. 2 pt. 1, commenced on enactment.

Editorial Notes:

E6 Power pursuant to section exercised (17.10.1972) by *Employment Agency (Exemption) Order 1972* (S.I. No. 257 of 1972).

Fees, etc., of agencies.

7.—(1) A person carrying on the business of an employment agency shall not charge any fees or expenses, in respect of services rendered in the course of the business, in excess of a scale approved by the Minister, and shall prepare and submit to the Minister as may be required for the purposes of this section a scale of such fees and expenses.

(2) A person carrying on the business of an employment agency shall not charge any fee solely for agreeing to seek employment for another person or solely for agreeing to seek persons who will give or accept employment.

General power to make regulations. **8.**—(1) The Minister may make regulations for giving effect to this Act and generally for controlling and supervising the carrying on of employment agencies.

(2) Regulations under this section may, without prejudice to the generality of subsection (1) of this section, provide for all or any of the following matters—

- (a) requiring a person carrying on an employment agency to keep records of the business conducted by the agency and of such other matters as may be prescribed;
- (b) prescribing the form of such records and the entries to be made in them;
- (c) requiring a person carrying on an employment agency to furnish to the Minister annual returns and, at such times and in such manner as may be specified, such other information as he may from time to time require;
- (d) the prevention of fraud in the carrying on of the business of employment agency;
- (e) the safeguarding of moneys received by employment agencies for and on behalf of persons employing such agencies;
- (f) requiring the display in premises of employment agencies of licences under this Act granted in respect of the premises, of scales of fees and expenses approved thereunder and of such other notices as may be prescribed;
- (g) requiring holders of licences under this Act to obtain, keep and (if so required) produce to the Minister in advance of seeking persons for employment outside the State evidence of the authority of such holders to act on behalf of persons offering such employment and information relating to the terms of such employment;
- (h) requiring, in the case of a notice in a publication published in the State seeking a person for employment outside the State or offering to obtain employment outside the State for a citizen of the State residing in the State, the inclusion in the notice of the name and address of the person outside the State seeking a person for or offering employment or the name and address of the holder of a licence under this Act;
- (i) requiring, in the case of an employment agency seeking persons under the age of 18 for employment outside the State or offering to obtain employment outside the State for citizens of the State under the age of 18 years and residing in the State, such information as may be specified in the regulations relating to the employment outside the State.

Annotations

Editorial Notes:

- E7** Power pursuant to section exercised (1.03.1993) by *Employment Agency Regulations 1993* (S.I. No. 49 of 1993).
- E8** Power pursuant to section exercised (1.01.1989) by *Employment Agency Regulations 1988* (S.I. No. 319 of 1988).
- E9** Power pursuant to section exercised (18.10.1978) by *Employment Agency Regulations 1978* (S.I. No. 288 of 1978).

E10 Power pursuant to section exercised (1.02.1977) by *Employment Agency Regulations 1976* (S.I. No. 318 of 1976).

E11 Power pursuant to section exercised (1.11.1972) by *Employment Agency Regulations 1972* (S.I. No. 255 of 1972).

Power of entry inspection, etc.

9.—(1) The Minister may appoint such and so many persons as he thinks fit to be authorised officers for the purposes of this Act.

(2) Every authorised officer shall be furnished with a warrant of his appointment as an authorised officer and, when exercising any power conferred on an authorised officer by this section shall, if requested by any person affected, produce the warrant to that person.

(3) An authorised officer may at all reasonable times—

(a) enter and inspect any premises in which the business of an employment agency is being carried on or in respect of which an application under section 3 of this Act has been made,

(b) inspect such books and records relating to the business of an employment agency as are required to be kept under this Act, and, where he has reasonable grounds for believing that this Act is being or has been contravened, take copies of any entries in such books or records,

(c) require any person carrying on the business of an employment agency or proposing to do so to furnish him with such information as he may reasonably require in order to ascertain whether or not the agency is being or is likely to be conducted in accordance with this Act.

(4) A person shall not—

(a) obstruct or impede an authorised officer in the exercise of any of the powers conferred by this section;

(b) fail or refuse to give to an authorised officer on demand any information which the officer is entitled to demand under this section, or

(c) give to an authorised officer information which the person knows to be false or misleading in a material particular.

Offences.

10.—(1) Where a person contravenes this Act or any regulation thereunder he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F3[€2,000] and, in the case of a continuing offence, to a further fine not exceeding F3[€1,000] in respect of each day on which the offence is continued.

(2) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by any wilful neglect on the part of, any director, manager, secretary, or other officer of the body corporate, the director, manager, secretary or other officer shall also be deemed to be guilty of the offence.

Annotations

Amendments:

F3 Substituted (14.07.2003) by *Protection of Employees (Fixed-Term Work) Act 2003* (29/2003), s. 19(1), commenced on enactment.

Laying of regulations before Houses of Oireachtas. **11.**—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Repeal. **12.**—Section 85 of the Public Health Acts (Amendment) Act, 1907, is hereby repealed.

Expenses, etc. **13.**—(1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) Any moneys received by the Minister under this Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

Annotations

Modifications (not altering text):

C3 Terms “Department of Finance” and “Minister for Finance” construed and functions in subs. (2) transferred (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1, subject to transitional provisions in arts. 5-9.

...

2.— (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3.— The functions conferred on the Minister for Finance by or under the provisions of —

- (a) the enactments specified in Schedule 1, and
- (b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1 Enactments

No. 27 of 1971

Employment Agency Act 1971

Section 13(2)

...

Commencement. **14.**—This Act shall come into operation on such day as the Minister appoints by order.

Annotations**Editorial Notes:**

E12 Power pursuant to section exercised (1.11.1972) by *Employment Agency Act 1971 (Commencement) Order 1972* (S.I. No. 256 of 1972).

2. The 1st day of November, 1972, is hereby appointed to be the day on which the Employment Agency Act, 1971 (No. 27 of 1971) shall come into operation.

Short title.

15.—This Act may be cited as the Employment Agency Act, 1971.