

1980

# c 136 Employment Agencies Act

Ontario

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## CHAPTER 136

## Employment Agencies Act

## 1. In this Act,

Interpre-  
tation

(a) "employment agency" means the business of procuring for a fee, reward or other remuneration,

(i) persons for employment, or

(ii) employment for persons,

and includes the business of counselling or testing persons for a fee, reward or other remuneration to assist them in securing employment;

(b) "licence" means a licence under this Act;

(c) "regulations" means the regulations made under this Act;

(d) "supervisor" means the supervisor of employment agencies. R.S.O. 1970, c. 146, s. 1.

2. No person shall carry on an employment agency unless licensed so to do by the supervisor. R.S.O. 1970, c. 146, s. 2. <sup>Licence required</sup>

3.—(1) Subject to section 6, an applicant for a licence to carry on a class of employment agency who, <sup>Licence issue</sup>

(a) applies in the prescribed form;

(b) pays the prescribed fee;

(c) furnishes such security as is prescribed by the regulations; and

(d) complies with the qualifications prescribed by the regulations,

is entitled to be issued such licence by the supervisor.

(2) Subject to section 7, a licensee who applies for a renewal of his licence in accordance with this Act and the regulations and pays the prescribed fee is entitled to renewal of his licence by the supervisor. 1971, c. 50, s. 36 (1). <sup>Renewal</sup>

Term of  
licence

**4.** A licence expires on the 31st day of March next following its date of issue, unless it is sooner suspended or revoked. R.S.O. 1970, c. 146, s. 4.

Branches,  
etc.

**5.** Where an employment agency is carried on in or from more than one place of business, a separate licence shall be obtained in respect of each place of business. R.S.O. 1970, c. 146, s. 5.

Refusal  
to issue  
licence

**6.** Subject to section 8, the supervisor may refuse to issue a licence to an applicant who otherwise has complied with the requirements of section 3 if in his opinion,

- (a) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the employment agency in accordance with law and with honesty and integrity; or
- (b) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the carrying on of the employment agency; or
- (c) where the applicant is a corporation,
  - (i) the past conduct of its officers or directors affords reasonable grounds for belief that the employment agency will not be carried on by it in accordance with law or with honesty and integrity, or
  - (ii) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the carrying on of the employment agency. 1971, c. 50, s. 36 (2), *part.*

Suspension,  
revocation,  
etc.

**7.** Subject to section 8, the supervisor may refuse to renew or may suspend or revoke a licence if in his opinion,

- (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of the employment agency carried on pursuant to the licence to contravene any provision of this Act or of the regulations or of any other Act or regulations applying to the carrying on of the employment agency and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

- (b) the licence would be refused under section 6 if the licensee were making application for it in the first instance. 1971, c. 50, s. 36 (2), *part*.

8.—(1) Where the supervisor proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his employment agency under the licence if he applies to the judge within fifteen days after service of the notice by the supervisor, and the applicant or licensee may within such time apply to the judge for a hearing.

Notice of proposal to refuse or revoke

(2) Where an applicant or licensee does not apply for a hearing in accordance with subsection (1), the supervisor may carry out the proposal stated in his notice under subsection (1).

Powers of supervisor where no hearing

(3) Where an applicant or licensee applies to a judge for a hearing in accordance with subsection (1), the judge shall appoint a time for and hold the hearing and, on the application of the supervisor at the hearing, may by order direct the supervisor to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the supervisor ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the supervisor.

Powers of judge where hearing

(4) The supervisor may serve notice under subsection (1) personally or by registered mail addressed to the applicant or licensee at his address last known to the supervisor and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Service of notice

(5) A judge to whom application is made by an applicant or licensee for a hearing under subsection (1) may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Extension of time for hearing

Continuation  
of licences  
pending  
renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the supervisor proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order. 1971, c. 50, s. 36 (2), *part.*

Parties

9.—(1) The supervisor, the applicant or licensee who has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 8.

When notice  
to be given

(2) Notice of a hearing under section 8 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination  
of  
documentary  
evidence

(3) An applicant or licensee who is a party to proceedings under section 8 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording  
of evidence

(4) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings  
of fact

R.S.O. 1980,  
c. 484

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 36 (2), *part.*

Appeal from  
order of  
judge

10.—(1) Any party to proceedings before a judge may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record  
to be filed  
in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file with the Registrar of the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

(3) The Minister of Labour is entitled to be heard, by <sup>Representations by</sup> counsel or otherwise, upon the argument of an appeal under <sup>Minister</sup> this section.

(4) The Divisional Court may, on the appeal, exercise the <sup>Decision</sup> powers of the judge appealed from and for such purpose the court may substitute its opinion for that of the supervisor or of the judge or the court may refer the matter back to the judge for a hearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 36 (2), *part*.

**11.** Notwithstanding section 8, the supervisor, by notice <sup>Provisional order of supervisor</sup> to a licensee, and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the carrying on of the employment agency under the licence is, in the supervisor's opinion, an immediate threat to the interests of persons dealing with the agency or to the public interest and the supervisor so states in the notice giving his reasons therefor, and thereafter sections 8, 9 and 10 apply as if the notice given under this section were a notice of a proposal to revoke the licence served under subsection 8 (1). 1971, c. 50, s. 36 (2), *part*.

**12.** A licensee shall display his licence in a conspicuous place <sup>Display of licence</sup> in the premises in which he carries on business. R.S.O. 1970, c. 146, s. 7.

**13.** Every person who contravenes any provision of this Act or <sup>Offence</sup> the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$500. R.S.O. 1970, c. 146, s. 8.

**14.** The Lieutenant Governor in Council may make regula- <sup>Regulations</sup> tions,

- (a) prescribing the qualifications of applicants for licences;
- (b) classifying employment agencies;
- (c) prescribing the nature and amount of the security to be furnished by employment agencies or any class thereof;
- (d) limiting and prescribing the nature of the business that shall be carried on by employment agencies or any class thereof;
- (e) regulating and controlling the manner in which the business of employment agencies or any class thereof shall be carried on;

- (f) prescribing the records, books and accounts that shall be kept by employment agencies or any class thereof;
- (g) prescribing the fee, reward or other remuneration that may be charged by employment agencies or any class thereof for their services;
- (h) requiring, providing for and prescribing the annual or other returns that shall be made to the supervisor by employment agencies or any class thereof;
- (i) fixing the fees to be paid for licences for employment agencies or any class thereof;
- (j) providing for the inspection of employment agencies or any class thereof;
- (k) prescribing forms and providing for their use. R.S.O. 1970, c. 146, s. 9; 1971, c. 50, s. 36 (3).