

SOUTH AUSTRALIA

EMPLOYEES REGISTRY OFFICES ACT, 1915

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 February 1993.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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APPENDIX LEGISLATIVE HISTORY

EMPLOYEES REGISTRY OFFICES ACT, 1915

being

Employees Registry Offices Act, 1915, No. 1218 of 1915
[Assented to 23 December 1915]

as amended by

Employees Registry Offices Act Amendment Act, 1924, No. 1627 of 1924 [Assented to 11 December 1924]
Statute Law Revision Act, 1934, No. 2168 of 1934 [Assented to 15 November 1934]
Employees Registry Offices Act, 1939, No. 41 of 1939 [Assented to 21 December 1939]
Employees Registry Offices Act Amendment Act, 1953, No. 29 of 1953 [Assented to 10 December 1953]
Employees Registry Offices Act Amendment Act, 1966, No. 9 of 1966 [Assented to 24 February 1966] (as amended by the
Statute Law Revision Act, 1973)
Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6 December 1973]
Industrial Relations (Miscellaneous Provisions) Amendment Act 1992 No. 93 of 1992 [Assented to 17 December 1992]¹

¹ Came into operation 1 February 1993: *Gaz.* 23 December 1992, p. 2260.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to regulate the keeping of employees registry offices.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Employees Registry Offices Act, 1915*.

Interpretation

2. (1) In this Act, unless inconsistent with the context—

"applicant" means applicant for the issue or renewal of a licence:

"chief inspector" means the Chief Inspector of Factories:

"district" means—

(a) the metropolitan area as defined in section 6 of the *Industrial Conciliation and Arbitration Act, 1972*, as amended from time to time; or

(b) any area which the Governor by proclamation declares to be a district for the purposes of this Act:

"inspector" means an inspector appointed under the *Industrial Relations Act (S.A.) 1972*, and includes the Chief Inspector of Factories:

"justice" means justice of the peace for the State:

"licence" means licence under this Act:

"licensee" means a person who holds a licence whether solely or jointly with any other person to keep or conduct an employees registry office:

"licensed premises" means the premises in respect of which a licence has been issued:

"manager", in relation to a company, means a person nominated by a company under section 4b of this Act to be the manager at any premises:

"prescribed" means prescribed by this Act or by regulation:

"proclamation" means proclamation by the Governor published in the *Government Gazette*:

"regulation" means regulation made under this Act:

"employee" means any person engaged, or seeking engagement for hire:

"employees registry office" means the premises at which is carried on the business of procuring employees for persons desiring to employ other persons in any kind of work, or for procuring employment for persons desiring to be employed in any kind of work, but does not include any premises used by a charitable association or charitable institution or an association in procuring such employment without fee or reward:

3.

"association" has the same meaning as in the *Industrial Relations Act (S.A.) 1972*:

"Secretary for Labour and Industry" means the person for the time being holding the office of Secretary for Labour and Industry under appointment by the Governor or the person so appointed to perform the duties of the Secretary for Labour and Industry for the time being:

"this Act" includes regulations.

(2) The express references to companies in this Act shall not imply that references to persons or references to licensees shall exclude references to companies.

Exemption of nurses call depots and medical agencies

2a. (1) The Nurses' Board of South Australia constituted by the *Nurses Registration Act, 1930-1934*, may, at its discretion, grant a certificate of exemption from this Act to any person who carries on the business of procuring employment in nursing and midwifery for nurses and midwives.

(2) The Medical Board of South Australia constituted by the *Medical Practitioners Act, 1919-1935*, may, at its discretion, grant a certificate of exemption from this Act to any person who carries on the business of procuring employment in medical work for medical practitioners registered under the *Medical Practitioners Act, 1919-1935*.

(3) Any person who has applied for a certificate of exemption under subsection (1) or subsection (2) of this section, and whose application has been refused, may apply to the Minister for such a certificate of exemption, and the Minister may, at his discretion, grant or refuse any such application.

(4) Every certificate of exemption issued under this section shall—

- (a) be signed by the chairman of the board which issued it, or as the case may be, by the Minister:
- (b) subject to this section, remain in force for the period specified therein:
- (c) specify the premises to which it relates:
- (d) exempt the person to whom it is granted from this Act, but only in relation to a business which is of a kind mentioned in subsection (1) or subsection (2) of this section, and is carried on at the premises specified in the certificate:
- (e) contain such other terms and conditions as the board or Minister thinks proper:
- (f) become void upon the breach of any of the terms and conditions thereof.

(5) The board which grants any certificate under this section shall forthwith send particulars thereof in writing to the Minister.

Minister may exempt licence holder from any provisions of the Act

2b. The Minister may by notice published in the *Government Gazette*, exempt any person, who holds a licence under the Act, from complying with such provisions of this Act as he deems fit and subject to such terms and conditions as are specified in the notice in any case where he is satisfied that the keeping or conducting of an employees registry office by the holder of such licence is subsidiary to, or incidental to, the carrying on of any other business by him and he may by notice published in the *Government Gazette* revoke such a notice or vary it in such manner as he thinks fit.

Every person keeping a registry office to be licensed

3. It shall not be lawful for any person—

- I. in the metropolitan district, after one month from the passing of this Act:
- II. in any other district, after one month from the publication in the *Government Gazette* of the proclamation declaring such district,

directly or indirectly—

- (a) to keep or conduct an employees registry office, or
- (b) to hold himself out to be a keeper or conductor of an employees registry office, or
- (c) to receive, charge, or recover any fee, charge, payment, or remuneration for or in connection with the hiring of any employee,

unless he is the holder of a licence in the form in the first schedule, or in a form to the like effect.

Power to issue licences

4. (1) The Secretary for Labour and Industry may, subject to section 5, issue a licence, to any person who—

- (a) makes written application therefor in the form in the second schedule, or in a form to the like effect; and
- (b) forwards with such application—
 - I. a certificate as to the applicant in the form in the third schedule, or in a form to the like effect, signed by a justice and by six ratepayers within the metropolitan district or, in the case of any other district, within that area which the Governor by proclamation declares to be a district for the purposes of this Act wherein the premises in respect of which the application is made are situate; and
 - II. a fee of ten dollars

* * * * *

and, subject to section 5, may, upon application as hereinbefore mentioned, renew any licence.

5.

(1a) In the case of an application by a company a certificate as to the applicant under subparagraph I of paragraph (b) of subsection (1) of this section shall relate to the manager.

(2) Every application for renewal of a licence shall be made not later than fourteen days before the expiration of the licence, in the form in the second schedule or in a form to the like effect, and shall be accompanied by a fee of ten dollars.

* * * * *

Partnership business

4a. (1) Where two or more persons propose jointly to keep or conduct an employees registry office—

- (a) such persons shall make a joint application in the form in the second schedule or in a form to the like effect for a licence and each person shall forward with such joint application a certificate in the form in the third schedule or in a form to the like effect;
- (b) only one licence shall be granted in respect of that employees registry office;
- (c) the licence shall specify each such person;
- (d) each such person shall for the purposes of this Act be deemed to be a licensee; and
- (e) the fees payable on such joint application shall be the same as if the licence were granted to a single person.

(2) The provisions of subsection (1) of this section shall extend to a renewal of a licence except that no certificate in the form of the third schedule shall be required on a renewal of a licence.

(3) Where a licensee is required by any provision of this Act to produce any licence or to do any other thing required by this Act, it shall be sufficient if any of the persons jointly keeping or conducting an employees registry office complies with that provision.

Companies as keeper of registry office

4b. Where a company proposes to keep or conduct an employees registry office at any premises a company shall nominate in the form in the second schedule a person to be the manager at those premises, being a person who—

- (a) is at all times in the service of the company;
- (b) personally supervises the business conducted at those premises; and
- (c) has his usual place of residence within the State.

Power to refuse licence

5. (1) The Secretary for Labour and Industry shall not issue or renew a licence unless he is satisfied—

- (a) that the premises in respect of which the application is made are suitable for an employees registry office and are clean and in good repair, and

6.

- (b) that the applicant is a suitable person to keep or conduct an employees registry office, and
- (c) where the applicant is a company that the person nominated to be manager is a fit and proper person to keep and conduct an employees registry office.

(2) If the Secretary for Labour and Industry refuses to issue or renew a licence, he shall furnish to the applicant a written statement of his reasons for such refusal.

Appeal on refusal

6. (1) Any applicant whose application has been refused, on giving to the Secretary for Labour and Industry at least seven clear days' notice in writing of his intention so to do may appeal from the decision of the Secretary for Labour and Industry to any local court held in the district wherein the premises in respect of which the application is made are situate.

(2) If after hearing the appeal the court decides that the application ought to be granted, the Secretary for Labour and Industry shall issue or renew the licence accordingly.

(3) The decision of the court shall be final and conclusive, and shall not be challenged, appealed against, reviewed, quashed, or called in question, or be subject to prohibition or *mandamus*, in any court on any account whatever.

(4) The court on the hearing of any such appeal may make any such order as to costs as it thinks fit.

(5) For any such appeal the court shall consist of a special magistrate.

Companies change of manager

6a. (1) This section shall apply to a licence held by a company.

(2) In the event of—

- (a) the death of the manager nominated by the company;
- (b) the manager ceasing to be at all time in the service of the company;
- (c) the manager ceasing personally to supervise the business conducted at the premises specified in the licence; or
- (d) the manager ceasing to have his usual place of business within the State,

the company shall within fourteen clear days of the event—

- (i) give notice in writing of that event to the Secretary for Labour and Industry; and
- (ii) specify in such notice the name of the person nominated to be the new manager.

(3) The company may at any time revoke any nomination under this Act by notice in writing to the Secretary for Labour and Industry and shall within fourteen clear days after such revocation nominate a person to be the new manager.

7.

(4) The provisions of this Act shall apply in relation to a nomination of a new manager under this section as if the nomination were an application for a licence by the company.

(5) The validity of the licence held by a company shall not be affected by reason only of the occurrence of an event specified in subsection (2) or a revocation of a nomination under subsection (3) of this section.

(6) A notice under subsection (2) shall be *prima facie* evidence of the facts stated in the notice.

Offences by companies

6b. (1) Except as provided by section 6a a company shall not keep or conduct an employees registry office at any premises unless in respect of those premises there is a manager who complies with the requirements of section 4b of this Act.

Penalty: One hundred dollars.

(2) In a prosecution for an offence against subsection (1) of this section an allegation in the complaint that a person does not have his usual place of residence within the State shall be *prima facie* evidence of that fact.

Duration of licence

7. Subject to section 21, every licence shall continue in force up to and including the thirtieth day of June next after the date of the issue thereof, and shall, if renewed, continue in force from the first day of July until and including the thirtieth day of June in the year next following.

Secretary for Labour and Industry to keep register

8. (1) The Secretary for Labour and Industry shall keep a register of all licensees, and renewals, and cancellations of, licences.

(2) A document purporting to be a copy of any entry in such register and purporting to be signed by the Secretary for Labour and Industry shall, in any legal proceedings, be *prima facie* evidence of the truth of the matters stated in such document.

If licence lost duplicate may be issued

9. (1) Upon the application of the licensee under any licence, the Secretary for Labour and Industry may, on proof to his satisfaction of the loss or destruction of such licence, and on payment of the prescribed fee, issue to such licensee a duplicate licence bearing all memoranda endorsed on the original licence.

Effect of duplicate

(2) Such duplicate shall avail for all purposes as if it were the original licence.

Books and records to be kept by licensee

10. (1) Every licensee shall—

- (a) keep a book or a card index system approved by the Secretary for Labour and Industry, containing the names of every person who pays, or is charged, a payment or remuneration for or in connection with the hiring of an employee, together with the amount of such payment or remuneration and the date of the paying or charging thereof;

8.

- (b) keep a book in the form in the fourth schedule or card index system approved by the Secretary for Labour and Industry, containing, as to every engagement made at his licensed premises, or in connection with his business as the keeper or conductor of an employees registry office, the particulars specified in such form, and the signature of such licensee; and
- (c) preserve for a period of at least one year from the date of the receipt thereof respectively, the originals of all letters received by the licensee relating to the hiring of employees.

(2) Such books, or card index systems and originals of letters as aforesaid shall be kept, at all times, at the licensed premises.

Powers of Inspectors

11. (1) For the purpose of the execution or enforcement of the provisions of this Act any inspector shall have power to enter at any time any licensed premises or any part thereof and—

- (a) require the production of any books, papers, card indices, letters, accounts or other documents relating to the business of the licensee and inspect, examine, and take copies and extracts from the same;
- (b) question with respect to matters under this Act any person found therein;
- (c) take with him an interpreter, if he deems it necessary;
- (d) any question asked on behalf of such inspector by such interpreter shall be deemed to have been asked by the inspector and any answer to such question given to the interpreter shall be deemed to have been given to the inspector.

(2) No person shall be bound to answer a question on such an occasion if the answer might incriminate him.

Obstruction of Inspectors

11a. Any person who—

- (a) obstructs or interferes with or wilfully delays an inspector or an interpreter in the execution of any of his duties or powers under this Act; or
- (b) subject to subsection (2) of section 11, omits to truly answer or reply to a question asked by or on behalf of an inspector under the authority of section 11; or
- (c) directly or indirectly prevents or dissuades or attempts to prevent or dissuade, any person from appearing before or being questioned by or on behalf of an inspector under the authority of section 11; or
- (d) fails to produce any books, papers, card index system, letters, accounts, or other documents relating to the business of the licensee, which, pursuant to section 11(1)(a), he is required by an inspector to produce, shall be guilty of an offence against this Act.

Name to be posted up

12. Every licensee shall at all times keep posted up in some conspicuous place on his licensed premises a copy of the current licence issued under and in pursuance of this Act.

Licence holder to deposit and post up list of fees

13. (1) Every licensee shall deposit at the office of the Secretary for Labour and Industry and at all times keep posted up in some conspicuous place in his licensed premises, so as to be easily read by persons attending at such premises, a printed copy of the scale of fees for the time being chargeable by and payable to the licensee in respect of the hiring of employees.

(2) The scale shall specify the maximum total amount chargeable to the employer and the maximum total amount chargeable to the employee in respect of the hiring of any employee. The scale shall not provide for recurring payments to be made in respect of the same hiring.

Scale of fees on letterhead

13a. A licensee shall not send or deliver to any person any letter which relates to the hiring of any employee and which has his name or business name printed thereon unless the scale of fees mentioned in section 13 of this Act is printed on the letter or on a paper enclosed therewith.

Charges allowed to be received by registry office keepers

14. (1) No licensee shall, directly or indirectly, demand or receive from any person for or in respect of the hiring of any employee any sum in excess of the rate of payment or remuneration specified in the scale mentioned in section 13 of this Act and applicable to the particular case.

Other consideration prohibited

(2) No licensee shall, directly or indirectly, take or accept any goods or chattels or other thing by way of payment or part payment for or in respect of, or to secure payment for or in respect of, the hiring of any employee; nor shall any licensee receive or accept any reward or other consideration in addition to the rate specified in the scale mentioned in section 13 of this Act and applicable to the particular case.

(2a) A licensee shall not, in respect of any hiring, charge the employee a greater sum than he charges the employer.

(3) If any licensee is guilty of any contravention of this section, the whole of the sum received by him (and not merely the excess), and any goods or chattels or other thing received by him, as aforesaid, shall be recoverable from him in any court of competent jurisdiction, by the person who paid or delivered it or them.

(4) The liability of a licensee under subsection (3) hereof is in addition to his liability to a penalty for the breach of this Act.

(5) Any sum paid by any person, directly or indirectly, to any licensee for or on account of advertising for the hiring of any employee or for any other purpose connected with such hiring shall be deemed to be a sum paid in respect of the hiring of an employee.

Licensee may demand deposit

14a. (1) Notwithstanding anything contained in this Act, a licensee may demand a deposit from any employee or employer.

(2) On the making of any engagement on behalf of the person by whom a deposit is paid, the deposit shall form part of the fee payable by that person, and may be retained by the licensee.

(3) At any time before the making of such an engagement a licensee shall repay any deposit on demand to the person by whom it is paid.

Only licensee to use the licence

15. No licensee shall directly or indirectly permit any other person to carry on business under colour of his licence.

* * * * *

Power of Minister to cancel licence

16a. (1) The Minister may, on the recommendation of the Secretary for Labour and Industry and for any reason which the Minister thinks fit, cancel any licence.

(2) Before cancelling any licence the Minister shall—

- (a) give to the licensee, the holder of the licence in question, by post by registered letter addressed to the premises in respect of which the licence was issued, notice of the recommendation of the Secretary for Labour and Industry; and
- (b) hold full inquiry into the matter of the recommendation of the Secretary for Labour and Industry and afford the licensee an opportunity of giving an explanation personally or in writing.

Regulations

17. (1) The Governor may make regulations prescribing—

- I. the fees to be paid on applications under this Act;
- II. penalties, not exceeding in any case one hundred dollars, for the breach of any regulation; and
- III. all such other matters and things as may be necessary or convenient for carrying into effect any of the provisions of this Act.

(2) Every regulation—

- (a) shall be published in the *Government Gazette*;
- (b) shall, subject to subsection (3) hereof, take effect from the date of such publication, or from a later date to be fixed by the order making such regulation; and
- (c) shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session of Parliament.

(3) If either House of Parliament passes a resolution disallowing any regulation, of which resolution notice has been given at any date within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same session or Parliament as that in which the regulation is laid before such House.

(4) When a resolution has been passed as mentioned in subsection (3) hereof, notice of such resolution shall be published in the *Government Gazette*.

Onus on accused to prove he is licensed

18. In all proceedings under this Act the onus shall be on the accused to prove that he is a licensee.

Accused to produce his licence on prosecution

19. In all proceedings against a licensee for an offence against this Act or any other Act, or at common law, he shall produce his licence to the court.

Conviction to be endorsed on licence

20. Every conviction of a licensee for an offence against this Act shall be endorsed on his licence by the magistrate or justices by whom he is convicted.

Cancellation of licence on conviction

21. (1) The magistrate or justices by whom a licensee is convicted of an offence against this Act may, on such conviction, cancel the licence; and the clerk of the court shall in such case forward or deliver such licence up to the Secretary for Labour and Industry.

In certain cases licence deemed to be cancelled

(2) If any licensee is convicted of an offence under any Act whatsoever or for an offence at common law, and is ordered or sentenced to be imprisoned for a term not being less than one month, without the option of a fine, his licence shall *ipso facto* be deemed to have been cancelled; and the clerk of the court by or before which he is convicted shall forward or deliver such licence up to the Secretary for Labour and Industry.

Penalty for breach of Act

22. (a) If any licensee fails or neglects to comply with any of the provisions of this Act, or
- (b) if any person, whether a licensee or not, commits a breach of any of the provisions of this Act,

he shall be liable to a penalty not exceeding one hundred dollars.

Summary proceedings for offences

23. All proceedings in respect of offences against this Act shall be disposed of summarily.

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13.

SCHEDULES

THE FIRST SCHEDULE

The Employees Registry Offices Act, 1915

ANNUAL LICENCE TO KEEP AN EMPLOYEES REGISTRY OFFICE

I the undersigned, being the Secretary for Labour and Industry, do hereby license _____ of _____ to keep and have the conduct of an employees registry office at the premises situate at _____ in the city [or town, *or, as the case may be*] of _____, subject to the provisions of the *Employees Registry Offices Act, 1915*. This licence, unless sooner cancelled, will continue in force in respect of the said premises (but no other premises) from the date hereof until and including the thirtieth day of June, 19 _____.

Dated this _____ day of _____ 19 _____.

THE SECOND SCHEDULE

The Employees Registry Offices Act, 1915

APPLICATION FOR LICENCE TO KEEP AN EMPLOYEES REGISTRY OFFICE OR FOR THE RENEWAL OF SUCH LICENCE

To the Secretary for Labour and Industry

I [name] residing at [address] [being the manager of (insert name of company)] hereby apply for a licence [or for the renewal of a licence] under the Employees Registry Offices Act, 1915, as the keeper of an employees registry office at the premises situate at [address] in the city [or town or, as the case may be] of [city]. I enclose herewith the necessary certificate and also the prescribed fee of [amount].

Dated this [day] day of [month] 19 [year].

THE THIRD SCHEDULE

The Employees Registry Offices Act, 1915

CERTIFICATE OF JUSTICE AND RATEPAYERS

I the undersigned, being a Justice of the Peace residing within the [district] of [county], and we the undersigned six ratepayers of the metropolitan district [or District, as the case may be] of [district] do hereby certify that we are personally acquainted with [here state the name of the applicant], and believe him to be a fit and proper person to keep and have the conduct of an employees registry office at the premises situate at [address] in the said metropolitan district [or district] under the Employees Registry Offices Act, 1915.

Dated at [place] this [day] day of [month] 19 [year].

..... Justice of the Peace.

..... } Ratepayers of the
..... } of
..... }
..... }

Witness to signature of the said Justice—

.....

Witness to other signatures—

.....

THE FOURTH SCHEDULE

The Employees Registry Offices Act, 1915

BOOK OF ENGAGEMENTS

Date of Engage-ment	Name of Employee or Applicant for Engagement as an Employee	Name of Employer	Address and Occupation of Employer	Nature of Engage-ment	Rate of Wages	Terms of Engage-ment	Signature of Licensee

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