

South Australia

Employment Agents Registration Regulations 1995

under the *Employment Agents Registration Act 1993*

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Legislative history

1—Short title

These regulations may be cited as the *Employment Agents Registration Regulations 1995*.

3—Interpretation

In these regulations—

Act means the *Employment Agents Registration Act 1993*;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

4—Exemption from Act

Pursuant to section 30(2)(a) of the Act, an organisation or association involved in the administration of a Group Training Scheme jointly funded by the Commonwealth and State Governments for training purposes is exempt from the Act in a case that involves a trainee under the scheme obtaining employment with an employer who is participating in the scheme.

5—Exclusion of certain employment contracts

The following class of contracts, arrangements or understandings (not being contracts of service) are excluded from the definition of *employment contract* under section 3 of the Act, namely contracts, arrangements or understandings where the remuneration payable to the person performing the work equals or exceeds \$60 000 per annum.

6—Application for licence

- (1) Pursuant to section 7(1)(c)(i) of the Act, the following persons are disqualified from giving a character reference for an applicant for a licence:
 - (a) a person who has, within the previous five years, been convicted of an offence—
 - (i) in connection with the promotion, operation or management of a business; or
 - (ii) involving fraud or dishonesty; or
 - (b) a person who is an associate of the applicant.
- (2) For the purposes of subregulation (1)(b), a person is an associate of an applicant if—
 - (a) they are partners; or
 - (b) they are both involved in the same business; or
 - (c) they are both directors of the same company; or
 - (d) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
 - (e) one is a spouse, domestic partner, parent, grandparent, child or grandchild of the other.
- (3) Pursuant to section 7(3) of the Act, an applicant that is a body corporate must furnish two character references for the person who is nominated as the manager for the relevant business.
- (4) A character reference must be in the form set out in Schedule 1, or in a form to similar effect.
- (5) For the purposes of section 7(4) of the Act, an application for a licence must be advertised at least once in a newspaper circulating generally throughout the State.
- (6) For the purposes of section 7(8) of the Act, the period of one month is prescribed.

7—Application for renewal of a licence

For the purposes of section 9(2) of the Act, the prescribed number of days is 14.

8—Registered premises—exemption from notification

The following premises are excluded from the operation of sections 16, 17 and 19 of the Act, namely premises:

- (a) that are located at a place of business of an employer in order to facilitate the employment of people to work at that place; and
- (b) that are used by the employment agent on a temporary basis only, or that are only staffed by the employment agent on a part-time or casual basis.

9—Display of fees

A notice under section 19(1) of the Act must be in the form set out in Schedule 2, or in a form to similar effect.

10—Provision of information

A statement under section 20(4) of the Act must be in the form set out in Schedule 3, or in a form to similar effect.

11—Fees

The fees set out in Schedule 4 are payable as specified in that Schedule.

Schedule 1—Character reference

This reference relates to an application for a licence as an employment agent under the *Employment Agents Registration Act 1993*

Name of person to whom this reference relates:

.....(the applicant)

Please describe how you know the applicant and your relationship to him or her (if any):

.....
.....
.....

Do you consider the applicant to be a fit and proper person to hold an employment agent's licence? Please explain what you know about his or her conduct and character:

.....
.....
.....

What do you know of the applicant in terms of his or her knowledge, experience and ability to operate or manage the business of an employment agent?

.....
.....
.....

Have you any additional comments relevant to the application?

.....
.....
.....

Please provide some information about yourself:

Name:.....

Address:.....

Occupation:.....

.....

(Signed)

Date: / /

Note—

The following persons are disqualified from providing a character reference for an applicant for a licence:

- (a) a person who has, within the previous five years, been convicted of an offence—
 - (i) in connection with the promotion, operation or management of a business; or
 - (ii) involving fraud or dishonesty; or
- (b) a person who is associated with the applicant in any of the following circumstances:
 - (i) partners;
 - (ii) involved in the same business;
 - (iii) directors of the same company;
 - (iv) beneficiaries or trustees of the same trust;
 - (v) relative.

Schedule 2—Fee schedule

Name of employment agent:.....

Part A: Scale of fees chargeable by this employment agency—People applying for employment

[Here set out the scale of fees.]

Part B: Scale of fees chargeable by this employment agency—People seeking employees

[Here set out the scale of fees or a statement to the effect that any fee is subject to negotiation between the employment agent and a client.]

.....
 (Signed) (Title)

..... / /

Schedule 3—Schedule of information to successful applicant

Pursuant to section 20(4) of the *Employment Agents Registration Act 1993*

Note—

A reference to employer includes a person who has engaged someone under contract.

| | | | | |
|--|--|-------------------------|-----|----|
| A Name and business address of the employer: | | | | |
| B Location of employment: | | | | |
| C (i) | Coverage under <i>Workers Rehabilitation and Compensation Act 1986</i> : | YES | NO | |
| (ii) | Is insurance paid by the employer? | | | |
| | Workers Comp | YES | NO | |
| | Public Liability | YES | NO | |
| | Car Insurance | YES | NO | |
| | Other (please specify) | YES | NO | |
| D | Will tax be paid through the employer ie PAYE? | YES | NO | |
| E | Is the worker covered by a | • federal award; or | YES | NO |
| | | • state award; or | YES | NO |
| | | • enterprise agreement? | YES | NO |
| Name of any relevant award or agreement: | | | | |
| F | Are Commonwealth Superannuation Benefits paid by the employer? | YES | NO | |
| G | Entitlements to leave: | Annual Leave | YES | NO |
| | | Sick Leave | YES | NO |
| | Length of parental leave: | Parental Leave | YES | NO |
| H Expenses to be reimbursed by employer (provide complete list including amounts/arrangements): | | | | |
| Name of person (or company) supplying this statement: / / | | | | |
| Note to the applicant: You should verify this information with the employer. | | | | |

Schedule 4—Fees

The following fees are payable:

| | | |
|---|--|------|
| 1 | Application for a licence under section 7 | \$12 |
| 2 | Application for the renewal of a licence under section 9 | \$12 |
| 3 | Late application fee under section 9 | \$12 |

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|------------|--------------------------------------|----------------------|
| 1995 | 225 | <i>Gazette 14.12.1995 p1678</i> | 14.12.1995: r 2 |
| 2003 | 147 | <i>Gazette 12.6.2003 p2500</i> | 12.6.2003: r 2 |
| 2005 | 88 | <i>Gazette 26.5.2005 p1487</i> | 1.7.2005: r 2 |
| 2006 | 92 | <i>Gazette 15.6.2006 p1732</i> | 1.7.2006: r 2 |
| 2007 | 51 | <i>Gazette 26.4.2007 p1410</i> | 1.6.2007: r 2 |
| 2007 | 113 | <i>Gazette 7.6.2007 p2448</i> | 1.7.2007: r 2 |
| 2008 | 98 | <i>Gazette 5.6.2008 p2049</i> | 1.7.2008: r 2 |
| 2009 | 147 | <i>Gazette 4.6.2009 p2634</i> | 1.7.2009: r 2 |
| 2010 | 111 | <i>Gazette 10.6.2010 p2904</i> | 1.7.2010: r 2 |

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision | How varied | Commencement |
|------------------|--|-----------------|
| <i>r 2</i> | <i>omitted under the Legislation Revision and Publication Act 2002</i> | <i>1.7.2005</i> |
| r 3 | | |
| domestic partner | inserted by 51/2007 r 15 | 1.6.2007 |
| spouse | inserted by 51/2007 r 15 | 1.6.2007 |
| r 6 | | |
| r 6(2) | varied by 51/2007 r 16 | 1.6.2007 |
| Schs 1—3 | headings varied by 147/2003 Sch 1 | 12.6.2003 |
| Sch 4 | varied by 88/2005 r 4 | 1.7.2005 |
| | substituted by 92/2006 r 4 | 1.7.2006 |
| | substituted by 113/2007 r 4 | 1.7.2007 |
| | substituted by 98/2008 r 4 | 1.7.2008 |

substituted by 147/2009 r 4

1.7.2009

Historical versions

1.7.2005

1.7.2006

1.6.2007

1.7.2007

1.7.2008