

RECRUITMENT OF WORKERS

Act 39 of 1993

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1 Short title

This Act may be cited as the Recruitment of Workers Act.

2 Interpretation

In this Act –

“licence” means a licence issued under section 3;

“licensing authority” means the Permanent Secretary of the Ministry;

“Minister” means the Minister to whom responsibility for the subject of employment is assigned;

“recruit”, in relation to a worker –

- (a) means recruit for employment abroad or in Mauritius; and
- (b) includes marketing, canvassing, advertising and any other activity undertaken by a licensee with a view to the employment of a worker.

3 Licences

(1) No person shall, on behalf of an employer recruit a worker unless he –

- (a) holds a licence; and
- (b) has furnished security under subsection (7).

(2) Subsection (1) shall not apply where a worker is recruited by the employer himself.

(3) Any person who wishes to obtain a licence shall make a written application to the licensing authority in such manner as may be prescribed.

(4) The licensing authority may, on receipt of an application, request the applicant to furnish such particulars as he may require for the purpose of determining whether the licence ought to be granted.

(5) Where the licensing authority is satisfied that a licence may be issued, he shall issue the licence in the prescribed form, on such terms and conditions as he thinks fit and on payment of the prescribed fee.

(6) A licence –

- (a) shall be valid for a period of two years;
- (b) may be renewed on payment of the prescribed fee; and
- (c) shall not be transferable.

(7) The security referred to in subsection (1)(b) –

- (a) shall be in such sum as may be prescribed; and
- (b) may be furnished –
 - (i) by cash deposited in the Treasury;
 - (ii) by means of a policy of insurance issued by a company registered under the Insurance Act; or

(iii) by means of a bank guarantee issued by a bank licensed under the Banking Act.

(8) Where a licensee commits a breach of any condition attached to his licence or of this Act or of any subsidiary enactment made under it, the licensing authority may revoke the licence.

(9) (a) Any person who is dissatisfied with a decision of the licensing authority under this section may, within 10 days of the communication of the decision to him, appeal in writing to the Minister.

(b) The Minister may, on appeal, amend the decision of the licensing authority.

4 Persons who may be recruited

(1) No person shall be recruited unless –

- (a) he has attained the age of 18; and
- (b) he has given his consent to the recruitment.

(2) Except with the Minister's approval, no person shall be recruited for employment abroad unless he produces a certificate from the Director of Public Prosecutions attesting that he has not been convicted of any crime or misdemeanour over the past 10 years.

(3) In considering whether approval should be granted or not, the Minister shall have regard, inter alia, to the –

- (a) nature of any offence of which the worker has been convicted; and
- (b) time which has elapsed since the commission of any such offence.

5 Duties of licensees

(1) No licensee shall recruit a worker unless he is in presence of a written request by an employer for the recruitment.

(2) In the case of recruitment for employment abroad, the licensee shall be responsible for the –

- (a) medical examination of every recruited worker before he leaves Mauritius;
- (b) obtention of entry certificates and other documents and the completion of all formalities in respect of every recruited worker;
- (c) cost of the onward journey of the recruited worker to the place of work;
- (d) return, including the cost thereof, of the recruited worker –
 - (i) where his services are no longer required;
 - (ii) at the expiry of his contract of employment;
 - (iii) where he has been seriously injured at work or he is or is found unfit on grounds of ill-health or inefficiency to perform the duties under his contract of employment; or
 - (iv) where there is a state of war in the country of employment;
- (e) return, including the cost thereof, of the dead body of a recruited worker who dies whilst in employment abroad, unless otherwise advised by his next of kin.

(3) Every licensee shall furnish to the licensing authority particulars of any vacancy abroad in respect of which he proposes to recruit a worker.

6 Expenses

All expenses incurred in connection with the recruitment of a worker shall be borne by the employer or the licensee.

7 Contracts of employment

(1) Every contract of employment entered into by an employer and a recruited worker shall contain such terms and conditions as may be prescribed.

(2) A licensee shall, before a recruited worker leaves Mauritius, submit to the licensing authority a copy of the contract of employment signed by the employer and the recruited worker.

(3) A licensee shall notify the licensing authority of any change in the terms and conditions of the contract referred to in subsection (2) within 15 days of any such change being brought to his notice.

8 Particulars of recruited workers

A licensee shall submit to the licensing authority the name and address in Mauritius of the nearest relative of every recruited worker within 7 days of the worker's departure from Mauritius.

9 Power to summon

The licensing authority may summon to its office any licensee or any recruited worker who proposes to leave Mauritius.

10 Offences

Any person who –

(a) without lawful authority or excuse, fails to comply with a summons under section 9; or

(b) contravenes this Act or any subsidiary enactment made under it,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 5 years.

11 Regulations

The Minister may –

(a) make such regulations as he thinks fit for the purposes of this Act; and

(b) by regulations, fix the fee which a licensee may claim from a recruited worker.
