
STATUTORY INSTRUMENTS

1981 No. 839 (N.I. 20)

NORTHERN IRELAND

**The Employment (Miscellaneous Provisions) (Northern Ireland)
Order 1981**

Laid before Parliament in draft

Made

10th June 1981

Coming into operation in accordance with Article 1

ARRANGEMENT OF ORDER

PART I

INTRODUCTORY

Article

1. Title and commencement.
2. Interpretation.

PART II

EMPLOYMENT AGENCIES

Licences

3. Employment agencies and businesses to be licensed.
4. Grant, refusal and revocation of licences.
5. Right to make representations.

*Conduct of employment agencies
and employment businesses*

6. General regulations.
7. Restriction on charging persons seeking employment.
8. Display of licences.

Supplementary provisions

9. Fraudulent applications and entries.
10. Regulations.
11. Interpretation of Part II.

PART III
MISCELLANEOUS

12. Repeal of Safeguarding of Employment Act (Northern Ireland) 1947.
13. Abolition of central advisory council on employment of disabled.
14. Abolition of Northern Ireland Training Council.
15. Abolition of Youth Careers Guidance Committee.
16. Increase in advances to Redundancy Fund.

PART IV
REPEALS

17. Repeals.

SCHEDULE—Repeals.

At the Court at Buckingham Palace, the 10th day of June 1981
Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 and, subject to paragraph (2), shall come into operation on such a day or days as the Head of the Department may by order appoint.

(2) Article 16 shall come into operation forthwith.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the Department” means the Department of Manpower Services.

PART II

EMPLOYMENT AGENCIES

Licences

Employment agencies and businesses to be licensed

3.—(1) Subject to paragraph (2), no person shall carry on an employment agency or an employment business at any premises after the date on which this

(a) 1974 c. 28. (b) 1954 c. 33 (N.I.)

Article comes into force unless he is the holder of a current licence from the Department authorising him to carry on such an agency or such a business at those premises.

(2) A person who has duly applied for a licence under this Part before the date mentioned in paragraph (1) shall not be precluded by that paragraph from carrying on an employment agency or an employment business after that date—

- (a) until the commencement of the licence; or
- (b) if the application is refused, until the refusal is notified to him in accordance with Article 5 (10).

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Grant, refusal and revocation of licences

4.—(1) Subject to paragraph (2), an applicant for a licence under this Part shall, not less than twenty-one days before making his application,—

- (a) display notice of the application in a place where it can conveniently be read by the public on or near the premises at which the employment agency or employment business is or is to be carried on and take such steps as he reasonably can to keep that notice so displayed for a period of twenty-one days; and
- (b) advertise notice of the application in a newspaper approved by the Department.

(2) Paragraph (1) shall not apply where the applicant is the holder of a current licence and the carrying on of the employment agency or employment business at the premises in question is authorised by that licence.

(3) A notice under paragraph (1) shall state—

- (a) the name and address of the applicant; and
- (b) the situation of the premises at which the employment agency or employment business is or is to be carried on and the class of business carried on or to be carried on at those premises.

(4) An application for a licence shall not be entertained by the Department unless it is made in the prescribed manner and is accompanied—

- (a) by the prescribed particulars; and
- (b) where paragraph (1) applies, by a certificate, signed by or on behalf of the applicant, stating that he has complied with that paragraph and a copy of the newspaper containing notice of the application.

(5) Subject to the provisions of this Article, the Department shall, as soon as reasonably practicable after the receipt of an application for a licence and on payment of the prescribed fee, grant a licence to any person who duly applies for one.

(6) An application for a licence in respect of an employment agency or an employment business may be refused on any of the following grounds, that is to say—

- (a) that the applicant is an individual under the age of twenty-one years;
- (b) that the applicant is a person who on account of misconduct or for any other sufficient reason is unsuitable to hold a licence in respect of an agency or business of the class in question;

- (c) that any person (other than the applicant) who is or is to be concerned with the carrying on of the employment agency or employment business is a person who on account of misconduct or for any other sufficient reason is unsuitable to be associated with an agency or business of the class in question;
 - (d) that the premises at which the employment agency or employment business is or is to be carried on are unsuitable in respect of an agency or business of the class in question;
 - (e) that the employment agency or employment business has been or is being improperly conducted.
- (7) A licence may be revoked by the Department on any of the grounds specified in paragraph (6).
- (8) Subject to paragraph (9) a licence shall, unless revoked, continue in force for one year (or such longer period, not exceeding five years, as the Department may specify in any particular case) beginning with the date specified therein for its commencement.
- (9) Where the holder of a licence in respect of any premises has duly applied before its expiry for a further licence in respect of those premises, the previous licence shall not expire until the commencement of the further licence or, if the application is refused, until the refusal is notified to him in accordance with Article 5 (10).
- (10) Where the holder of a licence dies, it shall be deemed to have been transferred on his death, if he was the sole holder, to his personal representatives and, if he was a joint holder, to the surviving holder or holders.
- (11) It shall be the duty of the holder of a licence under this Part, within one month of any change in the particulars accompanying the application for that licence under paragraph (4), to give to the Department notice in writing of the change and any person who fails to comply with this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.
- (12) Nothing in paragraph (11) shall be taken as authorising the holder of a licence to carry on any business otherwise than in accordance with the provisions of the licence.
- (13) Every licence granted under this Part shall be endorsed with notice of the effect of paragraph (11).

Right to make representations

- 5.—(1) Where the Department proposes to refuse or to revoke a licence it shall notify the applicant for, or the holder of, the licence of—
- (a) the proposal and the reasons for it; and
 - (b) his right under this Article to make written representations relating to that proposal and the time within which that right may be exercised.
- (2) A person who receives a notification of a proposal such as is mentioned in paragraph (1) may make written representations about it to the Department.
- (3) Written representations in relation to a proposal to refuse or revoke a licence must be received by the Department within 21 days of the receipt of the notification of that proposal.
- (4) If the Department receives such representations within the time specified in paragraph (3), the Department shall consider them and—

- (a) if it decides not to proceed with the proposal, and accordingly decides to grant or not to revoke the licence, shall notify the applicant or holder of its decision;
 - (b) in any other case, shall appoint a person to consider the representations on its behalf, and shall notify the applicant or holder of that appointment and of the name of the appointed person, and shall require the applicant or holder to state within 14 days whether he wishes to make oral representations to the appointed person.
- (5) If a person who receives such a notification as is mentioned in paragraph (4) (b) expresses, within the time mentioned in that sub-paragraph, a wish to make oral representations to the appointed person the Department shall give the former written notice of the place, date and time of the hearing.
- (6) A notice under paragraph (5) shall not specify a date for the hearing earlier than 21 days from the date of the notice, unless the person who wishes to make the representations has agreed to an earlier hearing.
- (7) The appointed person shall, in accordance with the notice given under paragraph (5), afford to the person who wishes to make oral representations an opportunity to do so, either in person or by any person authorised by him in that behalf.
- (8) The appointed person shall consider the written representations referred to in paragraph (4) and any oral representations made under paragraph (7), and shall make a report to the Department giving his findings of fact and his recommendations.
- (9) Where representations relating to a proposal have been made under this Article, the Department may make a final decision relating to that proposal only after receiving and considering the report on it of the appointed person.
- (10) The Department shall notify the applicant or holder of its decision and the reasons for it and shall send him a copy of the appointed person's report.

*Conduct of employment agencies
and employment businesses*

General regulations

6.—(1) Subject to paragraph (2), the Department may make regulations to secure the proper conduct of employment agencies and employment businesses and to protect the interests of persons availing themselves of the services of such agencies and businesses, and such regulations may in particular make provision—

- (a) requiring persons carrying on such agencies and businesses to keep records;
- (b) prescribing the form of such records and the entries to be made in them;
- (c) requiring persons carrying on such agencies and businesses to make such returns of information to the Department at such times and in such manner as may be prescribed;
- (d) prescribing qualifications appropriate for persons carrying on such agencies and businesses;
- (e) regulating advertising by persons carrying on such agencies and businesses;

- (f) safeguarding clients' money deposited with or otherwise received by persons carrying on such agencies and businesses;
- (g) regulating the provision of services by persons carrying on such agencies and businesses in respect of persons who seek employment outside the United Kingdom or of persons normally resident outside the United Kingdom who seek employment in the United Kingdom;
- (h) regulating the provision of services by persons carrying on such agencies and businesses in respect of persons who are under the age of eighteen years or are undergoing full-time education.

(2) Regulations under this Article shall not make provision for regulating or restricting the charging of fees to employers by persons carrying on such agencies and businesses.

(3) Any person who contravenes any regulation made under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Restriction on charging persons seeking employment

7.—(1) Except in such cases or classes of case as the Department may prescribe, a person carrying on an employment agency or an employment business shall not demand or directly or indirectly receive from any person any fee for finding him employment or for seeking to find him employment.

(2) Any person who contravenes this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Display of licences

8.—(1) The holder of a licence under this Part in respect of any employment agency or employment business shall keep displayed on the premises to which the licence relates in such a position that it can be readily seen by persons resorting to those premises—

- (a) the licence; and
- (b) a copy of any regulations under this Part which apply to the employment agency or employment business.

(2) Any person who contravenes this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Supplementary provisions

Fraudulent applications and entries

9.—(1) Any person who for the purpose of procuring the grant of a licence under this Part—

- (a) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (b) produces, furnishes, sends or otherwise makes use of a document which he knows is false in a material particular or recklessly produces, furnishes, sends or otherwise makes use of a document which is false in a material particular,

shall be guilty of an offence.

(2) Any person who makes or causes to be made or knowingly allows to be made any entry in a record or other document required to be kept in pursuance of this Part or of any regulations made thereunder which he knows to be false in a material particular shall be guilty of an offence.

(3) Any person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding £1,000.

Regulations

10.—(1) Subject to paragraph (2), the Department shall have power to make regulations for prescribing anything which under this Part is to be prescribed.

(2) The Department shall not make any regulations under this Part except after consultation with such bodies as appear to it to be representative of the interests concerned.

(3) Regulations under this Part shall be subject to negative resolution.

Interpretation of Part II

11.—(1) In this Part—

“current licence” means a licence granted under this Part which has not expired and which has not been revoked;

“employment” includes—

(a) employment by way of a professional engagement or otherwise under a contract for services;

(b) the reception in a private household of a person under an arrangement whereby that person is to assist in the domestic work of the household in consideration of receiving hospitality and pocket money or hospitality only;

and “worker” and “employer” shall be construed accordingly;

“employment agency” has the meaning assigned by paragraph (2) but does not include any arrangements, services, functions or business to which this Part does not apply by virtue of paragraph (5);

“employment business” has the meaning assigned by paragraph (3) but does not include any arrangements, services, functions or business to which this Part does not apply by virtue of paragraph (5);

“fee” includes any charge however described;

“holder” in relation to a licence includes a person to whom it is deemed to have been transferred under Article 4 (10);

“organisation” includes an association of organisations;

“organisation of employers” means an organisation which consists wholly or mainly of employers and whose principal objects include the regulation of relations between employers and workers or organisations of workers;

“organisation of workers” means an organisation which consists wholly or mainly of workers and whose principal objects include the regulation of relations between workers and employers or organisations of employers;

“prescribed” means prescribed by regulations made under this Part by the Department;

“seaman” has the same meaning as in the Merchant Shipping Act 1894 (a).

(2) For the purposes of this Part “employment agency” means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of providing services (whether by the provision of information or otherwise) for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them.

(3) For the purposes of this Part “employment business” means the business (whether or not carried on with a view to profit and whether or not carried on in

(a) 1894 c. 60.

conjunction with any other business) of supplying persons in the employment of the person carrying on the business, to act for, and under the control of, other persons in any capacity.

(4) The reference in paragraph (2) to providing services does not include a reference—

- (a) to publishing a newspaper or other publication unless it is published wholly or mainly for the purpose mentioned in that paragraph;
- (b) to the display by any person of advertisements on premises occupied by him otherwise than for the said purpose; or
- (c) to broadcasting by wireless telegraphy (within the meaning of the Wireless Telegraphy Act 1949 (a)), whether by way of sound broadcasting or of television.

(5) This Part does not apply to—

- (a) any business which is carried on exclusively for the purpose of obtaining employment for—
 - (i) persons formerly members of Her Majesty's naval, military or air forces; or
 - (ii) persons released from a prison or young offenders' centre; and which is certified annually by or on behalf of the Admiralty Board of the Defence Council, the Army Board of the Defence Council or the Air Force Board of the Defence Council or by the Secretary of State (as the case may be) to be properly conducted;
- (b) any nursing agency within the meaning of section 19 of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 (b);
- (c) services which are ancillary to the letting upon hire of any aircraft, vessel, vehicle, plant or equipment;
- (d) the making of arrangements for finding seamen for persons seeking to employ seamen or for finding employment for seamen;
- (e) services provided by any organisation of employers or organisation of workers for its members;
- (f) careers or employment services provided or controlled by one or more of the following—
 - (i) a university;
 - (ii) the Ulster Polytechnic;
 - (iii) an institution of further education within the meaning of the Education and Libraries (Northern Ireland) Order 1972 (c);
 - (iv) an institution which is maintained in pursuance of arrangements made by the Department of Education under Article 55 (1) of that Order or in respect of which grants are paid by that Department under Article 55 (2) of that Order;
 - (v) a school within the meaning of that Order.
- (g) any business carried on, or any services provided by, such persons or classes of persons as may be prescribed.

(6) Paragraph (5) (b) shall not be taken as exempting from the provisions of this Part any other business carried on in conjunction with an agency for the supply of nurses.

(a) 1949 c. 54 (b) 1971 c. 32 (N.I.) (c) S.I. 1972/1263 (N.I. 12).

PART III

MISCELLANEOUS

Repeal of Safeguarding of Employment Act (Northern Ireland) 1947

12. The Safeguarding of Employment Act (Northern Ireland) 1947 (a) shall cease to have effect.

Abolition of central advisory council on employment of disabled

13. The central advisory council established under section 17 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 (b) to advise and assist the Department in matters relating to the employment, undertaking of work on their own account, or training of disabled persons generally is hereby abolished.

Abolition of Northern Ireland Training Council

14. The Northern Ireland Training Council established under section 12 of the Industrial Training Act (Northern Ireland) 1964 (c) is hereby abolished.

Abolition of Youth Careers Guidance Committee

15. The Youth Careers Guidance Committee established under Article 7 of the Youth Employment Service (Northern Ireland) Order 1974 (d) is hereby abolished.

Increase in advances to Redundancy Fund

16. In section 45 (2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (e) (aggregate amount of principal which may be outstanding by way of advances out of the Consolidated Fund for the purposes of the Redundancy Fund not to exceed two million pounds) for the words "two million pounds" there shall be substituted the words "seven million five hundred thousand pounds".

PART IV

REPEALS

Repeals

17. The statutory provisions set out in the Schedule (which include certain obsolete or unnecessary provisions) are hereby repealed to the extent specified in column 3 of the Schedule.

N. E. Leigh,

Clerk of the Privy Council.

(a) 1947 c. 24 (N.I.). (b) 1945 c. 6 (N.I.). (c) 1964 c. 18 (N.I.).
(d) S.I. 1974/2144 (N.I. 7). (e) 1965 c. 19 (N.I.).

REPEALS

Chapter	Short Title	Extent of Repeal
1907 c. 53.	The Public Health Acts Amendment Act 1907.	Section 85.
1945 c. 6 (N.I.).	The Disabled Persons (Employment) Act (Northern Ireland) 1945.	Section 17 (1) (a). In section 17(2) the words "council and". In Schedule 2— (a) in the heading the words "council and"; (b) in paragraph 1 (1) the words "The central advisory council and", "the said council, or of" and "as the case may be"; (c) in paragraph 1 (2) the words "of the said council or" and "council or"; (d) in paragraph 4 the words "of the said council", "the said council or" and "of the said council"; (e) in paragraph 5 (1) the words "of the said council"; (f) in paragraph 5 (2) the words "the said council and" and "respectively"; (g) in paragraph 5 (3) the words "of the said council".
1947 c. 24 (N.I.).	The Safeguarding of Employment Act (Northern Ireland) 1947.	The whole Act.
1964 c. 18 (N.I.).	The Industrial Training Act (Northern Ireland) 1964.	Section 12.
1971 c. 32 (N.I.).	The Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971.	In section 17(2) the words from the beginning to "1907, and".
S.I. 1974/2144 (N.I. 7).	The Youth Employment Service (Northern Ireland) Order 1974.	Article 2 (2), except the definitions of "Department" and "school". Articles 4 to 7. Articles 9 and 10. The Schedule.
1975 c. 71.	The Employment Protection Act 1975.	In section 127— (a) in subsection (1) paragraphs (c) and (d); (b) in subsection (3) (g) the words from "the following" to "also of".

Chapter	Short Title	Extent of Repeal
1975 c. 71	The Employment Protection Act 1975. (<i>contd.</i>).	<p>In section 128—</p> <p>(a) in subsection (1) the words “or of the 1974 Act so far as it relates to unfair dismissal” and “and the 1974 Act”;</p> <p>(b) subsection (2);</p> <p>(c) in subsection (3) the words “and the relevant provisions of the 1974 Act” in both places where they occur and the words “or the relevant provisions of the 1974 Act”.</p>
S.I. 1976/1212 (N.I. 21).	The Financial Provisions (Northern Ireland) Order 1976.	Article 4.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Part II regulates employment agencies and businesses. It requires employment agencies and businesses to be licensed by the Department of Manpower Services and enables that Department to make general regulations to secure the proper conduct of such agencies and businesses.

Part III repeals the Safeguarding of Employment Act (Northern Ireland) 1947, abolishes the central advisory council on the employment of the disabled, the Northern Ireland Training Council and the Youth Careers Guidance Committee and increases the limit on the advances from the Consolidated Fund to the Redundancy Fund.