



# Employment Act 2008

## 2008 CHAPTER 24

### *Employment agencies*

#### **15 Offences: mode of trial and penalties**

In the Employment Agencies Act 1973 (c. 35), in each of sections 3B, 5(2) and 6(2), for the words from “on summary conviction” to the end there is substituted—

- “(a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.”

#### **16 Enforcement powers**

- (1) In the Employment Agencies Act 1973, section 9 (inspection) is amended as follows.
- (2) In subsection (1), in paragraph (b)—
  - (a) after “premises and” there is inserted “(i)”;
  - (b) after “thereunder” there is inserted—
    - “(ii) any financial records or other financial documents not falling within paragraph (i) which he may reasonably require to inspect for the purpose of ascertaining whether the provisions of this Act and of any regulations made thereunder are being complied with or of enabling the Secretary of State to exercise his functions under this Act;”.
- (3) In that subsection, paragraph (d) and the preceding “and” are repealed.
- (4) In subsection (1A), for the words from “he may require” to the end there is substituted “the officer may by notice in writing require the person carrying on the employment agency or employment business to furnish him with the record or other document or information at such time and place as he may specify.”
- (5) After subsection (1A) there is inserted—

“(1AA) Where a person carrying on an employment agency or employment business fails to comply with subsection (1A) in relation to any record or other document or information and the officer has reasonable cause to believe that the record or other document or information is kept by—

- (a) a person concerned with the carrying on of the employment agency or employment business, or
- (b) a person formerly so concerned,

the officer may by notice in writing require that person to furnish him with the record or other document or information at such time and place as he may specify.

(1AB) Where a person carrying on an employment agency or employment business fails to comply with subsection (1A) in relation to any financial record or other financial document which is kept by a bank, the officer may by notice in writing require the bank to furnish the record or other document to him at such time and place as he may specify.

(1AC) In subsection (1AB), “bank” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.”

(6) After subsection (1AC) (as inserted by subsection (5) above), there is inserted—

“(1AD) An officer may take copies of any record or other document inspected by or furnished to him under this section.

(1AE) An officer may, for the purposes of subsection (1AD), remove a record or other document from the premises where it is inspected by or furnished to him; but he must return it as soon as reasonably practicable.”

(7) In subsection (1C), for “subsection (1)” there is substituted “this section”.

(8) In subsection (3)—

- (a) for “paragraph (a), (b) or (d) of subsection (1) of this section” there is substituted “subsection (1)(a) or (b), (1AD) or (1AE)”;
- (b) for “paragraph (c) of that subsection or under subsection (1A)” there is substituted “subsection (1)(c), (1A), (1AA) or (1AB)”.

(9) In subsection (4)(a), the words “subsection (1) of” are repealed.

## 17 Offences by partnerships in Scotland

In the Employment Agencies Act 1973 (c. 35), in section 11 (offences by bodies corporate)—

- (a) the existing provision becomes subsection (1), and
- (b) after that subsection there is inserted—

“(2) Where an offence under this Act committed by a partnership in Scotland is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a partner or a person purporting to act as a partner, he, as well as the partnership, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.”