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WESTERN AUSTRALIA

EMPLOYMENT BROKERS ACT, 1909-1918

No. 57 of 1909.

[As amended by No. 64 of 1912, assented to 30th December, 1912; and No. 11 of 1918, assented to 23rd May, 1918, and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT for the Regulation of Employment Brokers.

[Assented to 21st December, 1909.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the *Employment Brokers Act, 1909-1918*, and shall come into operation on the first day of January, one thousand nine hundred and ten.

Short title and commencement.

2. The Employment Brokers Act, 1897, is hereby repealed :

Repeal.

Provided that all registrations made and all licenses granted under the repealed Act, and in force at the commencement of this Act, shall be deemed to have been made or granted under this Act.

3. In this Act, unless the context otherwise requires :—

Interpretation.
Amended by
No. 64 of 1912,
s. 2.
61 Vict. No. 24,
s. 2.

“ District ” means a magisterial district ;

- “Employment Broker” means every person who follows, for reward, the calling of an agent for procuring engagements for persons seeking to be employed for reward, or for procuring employees for persons seeking to employ them for reward, but shall not apply to persons empowered by law to act in the engagement of seamen ;
- “Licensing Magistrates” means a Licensing Court under the Licensing Act, 1911 ;
- “Licensing Meeting” means a sitting of a Licensing Court under the Licensing Act, 1911, and
- “Quarterly Licensing Meeting” means a quarterly sitting of such a Court ;
- “Minister” means the responsible Minister of the Crown charged for the time being with the administration of this Act ;
- “Servant” means any person who is seeking employment for reward in any employment of whatever nature, and includes domestic servant.

Register.
Amended by
No. 64 of 1912,
s. 3.
61 Vict., No. 24,
s. 3.

4. (1) The clerk of the Resident Magistrate or Police Magistrate in every district shall keep a book, to be called the Register of Employment Brokers, and every employment broker shall register in that book his name and the address of every place within the district where he carries on business as such broker, and, if he changes or adds to such place or places, shall, within a week after any such change or addition, register the same as aforesaid.

(2) The Register of Employment Brokers shall be open to inspection at all reasonable hours.

(3) Every person who is guilty of a breach or non-observance of this section shall be liable, on conviction, to a fine not exceeding ten pounds.

(4) Every such clerk shall with all convenient speed notify the Chief Inspector of Factories of every entry made in the register kept by him, and the said Inspector shall cause the information supplied to him to be entered in a general register of employment brokers to be kept by such Inspector in Perth.

(5) Such general register shall be open to public inspection without fee at all times during ordinary office hours.

5. (1) Every employment broker is required to obtain a license under this Act, and every person who carries on business as an employment broker without holding a license under this Act shall, on conviction, be liable to a fine not exceeding twenty pounds.

Employment
brokers to be
licensed.
Amended by
No. 64 of 1912,
s. 4.
61 Vict., No. 24,
s. 4.

(2) A license under this Act shall operate only within the district in which it was granted, and any person being the holder of a license for any district under this Act who carries on business as an employment broker in any other district for which he has not obtained a license shall be deemed to be carrying on business without holding a license and punishable accordingly.

6. The license granted under this Act shall be in force to the end of the year for which the same shall be granted.

License in force
to end of year.
61 Vict., No. 24,
s. 5.

7. (1) Every person who desires to obtain a license under this Act shall, fourteen days at least before applying for a certificate authorising the granting of such license, deliver, in quadruplicate, to the clerk of the Resident Magistrate or Police Magistrate of the district wherein the premises are situate in which such person desires to carry on business as employment broker, a notice, in writing, of his intended application, in the form of the First Schedule hereto, and shall affix a like notice on the outer side of the principal door or entrance of such premises, and shall, seven days at least before making such application, publish a copy of such notice in a newspaper circulating in the place where such premises are situate.

Notice of
intention to
apply for
license.
Amended by
No. 64 of 1912,
s. 5.
61 Vict., No. 24,
s. 6.

First Schedule.

(2) Immediately after receiving such notice, the clerk shall post one of the notices inside and another outside on some conspicuous part of the court house, office, or building in which the licensing meeting is to be held, and shall send one of such notices to the Chief Inspector of Factories in Perth or to the Inspector of Factories stationed nearest to the office of such clerk.

(3) The Governor shall from time to time by proclamation declare what Licensing Court shall deal with applications and exercise jurisdiction as Licensing Magistrates under this Act in each district, and may at any time revoke or vary any such proclamation, and the Court having authority for the time being under any such proclamation in respect of any district shall be deemed to be the "Licensing Magistrates," and every member or deputy member, whilst acting as a member thereof, a Licensing Magistrate for that district.

Licensee may
obtain renewal.
61 Vict., No. 24,
s. 7.

8. Every licensee shall be entitled, subject to the provisos hereinafter mentioned, to obtain from the licensing magistrates a certificate authorising the renewal of his license on producing such license and upon payment to the proper officer of the annual fee due in respect of such license :

Provided such license has not been allowed to expire or has not become void or liable to be forfeited from any cause whatever :

Provided also, that no objection to such renewal as is hereinafter mentioned shall have been taken and established in manner by this Act provided.

Objections to
license, and
notice thereof.
61 Vict., No. 24,
s. 8.

9. (1) At the hearing of any application for a certificate for, or for the renewal of a license, objections to the granting thereof on the ground that the applicant is not a fit and proper person to hold a license or of fraud, imposition, extortion, the conduct of the business for immoral purposes, or non-observance of this Act, may be made by—

Any of the licensing magistrates ;

Any applicant for a license or any person already licensed in the district ;

Any person resident in the district ;

Any officer of police ;

Any inspector of factories and any other person acting with the authority in writing of the Minister.

The council of the municipality within the district of which the said business premises are situate.

(2) Such objections, except when made by any of the licensing magistrates, shall be made by notice, in writing, signed by the objector and served on the applicant three clear days before the hearing, and shall be accompanied by such particulars as enable the applicant to know what he has to answer. If the particulars are insufficient, the licensing magistrates may order further particulars to be forthwith delivered, and the applicant shall be entitled to an adjournment for not less than three clear days from the delivery of such further particulars.

10. Every hearing of an application for a license shall be a judicial proceeding and open to the public, and every applicant shall attend, either personally or by his solicitor or agent, and may be required by the licensing magistrates to attend personally.

Hearing of application and attendance of applicant thereat.
61 Vict., No. 24, s. 9.

The licensing magistrates shall decide by majorities, and the proceedings at the hearing shall be conducted as near as may be in the manner directed by the law for the time being in force relating to the duties of justices in summary convictions and orders.

11. (1) If the licensing magistrates approve of an application, they shall grant to the applicant a certificate in the form in the Second Schedule hereto, and, if any objection to such application appears vexatious or malicious, they may order the person who has so objected to pay to the successful applicant a sum to meet his reasonable costs and expenses of meeting such objection.

Application may be granted or refused with costs.
61 Vict., No. 24, s. 10.
Second Schedule.

(2) If the licensing magistrates do not approve of an application, they may order the applicant to pay to the person who has successfully objected to it a sum of money to meet his reasonable costs and expenses in respect of such objection.

License to issue on presentation of magistrates' certificate and payment of fee. 61 Vict., No. 24, s. 11.

12. Every person to whom a certificate is granted as aforesaid, and who desires to obtain a license under this Act, shall cause the certificate to be presented to the Collector of Internal Revenue, or such other person as may be appointed to issue licenses under this Act, who shall issue the license upon payment of the fee required to be paid for the same :

Provided that every certificate shall be void unless the sum to be paid for every such license be paid as herein required to such Collector of Internal Revenue, or to such other person as aforesaid, within fourteen days after the granting of such certificate.

Transfer of Licenses. Third Schedule. 61 Vict., No. 24, s. 12.

13. Any Resident Magistrate or Police Magistrate for the district may, on application in writing by the proposed transferrer and transferee, at any time transfer the license of any licensee if approved of by him by an indorsement on the license, in the form in the Third Schedule, for which a fee of One pound shall be paid, and thereupon such appointee shall, until the first day of the month following the next quarterly licensing meeting or the quarterly licensing meeting to be held next after the expiration of twenty-one days from the date of such transfer, possess all the rights of such original license and shall be subject and liable to the same duties, obligations, and penalties as if such license had been originally granted to him :

Provided that such appointee shall, at the quarterly licensing meeting, apply for an original license, and the provisions hereinbefore contained as to the giving of notices, the hearing of applications for licenses and objections thereto, and the ordering of costs to be paid shall apply to the proceedings at such meeting and to such application.

Register book to be kept.

14. Every employment broker shall register the names of all persons who, through him, seek employment or employees, and shall keep a book, to be called a Register Book, in one part of which the names and addresses of persons seeking employment shall be entered, together with the date of registration and the fee, if any, paid or to be paid, and in another part of which the names and addresses of persons seeking employees shall be entered, together with the date of registration and the fee, if any, paid or to be paid.

15. Every employment broker shall deposit at the office of the Minister, and at all times keep posted up in some conspicuous place in his registry office, so as to be easily read by persons using such office, a printed copy of the scale of payment or remuneration for the time being chargeable by and payable to such employment broker in respect of the hiring of servants.

List of charges to be posted.
Amended by No. 64 of 1912, s. 6.
No. 11 of 1918, s. 2.

The said scale shall specify the maximum amount chargeable to the employer and the maximum amount chargeable to the employee for and in respect of any hiring. And no deposit or posting of any scale not in accordance with these provisions shall be deemed to be a compliance with this section.

Every employment broker who is guilty of a breach or non-observance of this section shall be liable, on conviction, to a fine not exceeding twenty pounds.

No payment or remuneration for or in respect of any hiring shall be charged by an employment broker to the servant which is not equally charged to the employer.

16. If an employment broker, or the servant or agent of an employment broker, directly or indirectly, demands or receives or agrees to receive, or obtains any promise to pay from any employer or servant, or any other person, for or in respect of the hiring of any servant, any greater rate of payment or remuneration than the rate specified in such scale, such employment broker shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine not exceeding twenty pounds.

Penalty for charging fees greater than in accordance with scale.

17. Every contract or agreement hereafter made or entered into whereby any employer or servant, or any person acting for any employer or servant, either directly or indirectly agrees to pay to any employment broker or to any person acting on his behalf, in respect of the hiring of any servant, any fee or other remuneration greater than the rates of payment or remuneration specified in such scale as aforesaid shall be null and void.

Contract for fees greater than those in scale to be void.

Application
book to be kept.
61 Vict., No. 24,
s. 14.
Fourth
Schedule.

18. Every employment broker who refers persons seeking employment to other persons, with a view to engagement, shall keep a book, to be called the Application Book, in the form of the Fourth Schedule hereto, containing in each column a truthful statement of the particulars set out at the head of that column, so far as known.

Engagement
book to be kept.
61 Vict., No. 24,
s. 15.
Fifth Schedule.

19. Every employment broker who, on behalf of an employer, makes an engagement, absolute or contingent, with any person to enter into employment, shall keep a book, to be called the Engagement Book, in the form in the Fifth Schedule hereto, containing in each column a truthful statement of the particulars set out at the head of that column, so far as known.

Employment
broker, on
demand, to give
transcript of
entry.
Amended by
No. 64 of 1912,
s. 7.
61 Vict., No. 24,
s. 16.

20. On the occasion of every engagement, whether absolute or contingent, every employment broker shall deliver to each party to the engagement, a transcript signed by such broker of the entry made in the engagement book in respect of such engagement, and such transcript and every such entry shall be free of stamp duty.

Every employment broker who is guilty of a breach or non-observance of this section shall be liable, on conviction, to a fine not exceeding ten pounds.

Penalty for not
keeping books
and for making
false entries,
etc.
61 Vict., No. 24,
s. 17.

21. Every employment broker who fails to keep the books and make the entries therein required by this Act, or who knowingly makes a false entry in any such book, or delivers a false transcript of an entry therein shall be liable, on conviction, to a fine not exceeding twenty pounds.

How far books
to be open to
inspection.
Amended by
No. 64 of 1912,
s. 8.
61 Vict., No. 24,
s. 18.

22. (1) The books required by this Act to be kept by an employment broker shall be open to general inspection at his place of business, at all reasonable hours, by the Resident Magistrate or Police Magistrate of the district, by any Inspector of Factories, by any officer of police, by any police constable authorised, in writing, by such magistrate or officer, and by any justice of the peace not being himself an employment broker.

(2) Such books shall be open at the place and during the hours aforesaid to inspection by any employer or employee, so far as regards any entry relating to him, on payment of a sum not exceeding one shilling.

(3) Every employment broker who is guilty of a breach or non-observance of this section shall be liable, on conviction thereof, to a fine not exceeding ten pounds.

23. If, during the currency of an annual license granted under this Act, the holder of such license has been twice convicted of a breach or non-observance of this Act, the Resident Magistrate or Police Magistrate or justices by whom such holder is afterwards, during such currency, convicted of such a breach or non-observance, may order such holder to bring the license into court to be cancelled, and, after such order, the person named in the license shall no longer act as an employment broker, or as the servant or agent of an employment broker, and every such person so acting shall, on conviction thereof, be liable to a fine not exceeding fifty pounds, or may be imprisoned, with or without hard labour, for three months.

License forfeitable on more than two convictions.
61 Vict., No. 24,
s. 19.

24. Every employment broker who, by any notice, placard, or advertisement, untruthfully and wilfully announces, or otherwise untruthfully and wilfully in any way represents—

Penalty for certain untrue advertisements.
61 Vict., No. 24,
s. 20.

- (a) that he is authorised by any government or department of a government, or by any person or corporation to act in, or promote, the engagement of any person or class of persons for any employment; or
- (b) that any government or department of a government, or any corporation or person is desirous of employing any person or class of persons,

shall be liable, on conviction, to a fine not exceeding twenty pounds, or to imprisonment not exceeding three months, with or without hard labour.

Penalty for false representation.

25. Every employment broker who knowingly, by any false statement or representation, induces any servant to enter into an engagement, shall be liable, on conviction, to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for not exceeding six months.

Offences punishable summarily. See 61 Vict., No. 24, s. 21.

26. Complaints for offences against, or for failure to comply with any provision of this Act shall be heard and determined in a summary way before any two Justices of the Peace in petty sessions.

Fees. 61 Vict., No. 24, s. 22.

27. The following fees shall be payable for things done under this Act, namely :—

	£	s.	d.
Upon giving notice of an application for a license, to the Clerk of the Licensing Magistrates	1	0	0
Upon the issuing or annual renewal of a license, to the Collector of Internal Revenue or other officer appointed as aforesaid	5	0	0
Upon the transfer of any license	1	0	0

Provided that if the certificate for such license is granted after the thirty first day of March the licensee shall pay only three fourths of such fee, and if granted after the thirtieth day of June one half of such fee, and if after the thirtieth day of September one fourth of such fee.

Regulations.

28. (1) The Governor may make regulations for carrying into effect the provisions of this Act, and imposing a penalty not exceeding twenty pounds for any breach thereof.

(2)¹ All such regulations shall be published in the "Government Gazette," and when so published shall have the force of law, and shall be judicially noticed, and shall be laid before both Houses of Parliament within fourteen days after the same shall have been made, if Parliament be then sitting, and if not, then within ten days after the next meeting of Parliament.

¹ See now section 86 of Interpretation Act, 1918 (Act No. 30 of 1918)

Employment Brokers.

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FIRST SCHEDULE.

Section 7.

The Employment Brokers Act, 1909.

Form of Notice of Application for a License.

To the Worshipful the Licensing Magistrates acting in and for the district of

I, A.B. (*state trade or occupation*) now residing at _____ in the town or district of _____, hereby give notice that I intend to apply at the next Licensing Meeting to be held for the first above-named district for an Employment Broker's License.

(*If the applicant has held such a License before, here state the fact, and for how long and in what district or districts.*)

(Signature of Applicant.)

SECOND SCHEDULE.

Section 11.

The Employment Brokers Act, 1909.

Form of Certificate by Licensing Magistrates to authorise the Granting of a License.

Western Australia, }
to wit. }

At the Quarterly Licensing Meeting (*or an adjournment of the Quarterly Licensing Meeting*) of the Licensing Magistrates acting in and for the district of _____, held at _____, on the

_____ day of _____, 19____, We, the undersigned Licensing Magistrates, do by virtue of the powers vested in us, authorise the Collector of Internal Revenue (*or other proper officer*) to issue to A.B., of _____, an Employment Broker's License to endure from the date hereof until the termination of the current year.

Given under our hands this _____ day of _____ 19____.

THIRD SCHEDULE.

Section 13.

The Employment Brokers Act, 1909.

Form of Indorsement on a License of a Transfer thereof.

I, the undersigned, being a Resident (*or Police*) Magistrate for the District of _____, sitting at _____, this _____ day of _____, do hereby transfer the rights and privileges of the within License to C.D. for the residue of the term between this day and the first day of the month following the Quarterly Licensing Meeting for the said District to be held on the _____ day of _____ next.

A.B.

Employment Brokers.

Section 18.

FOURTH SCHEDULE.*The Employment Brokers Act, 1909.***Application Book.**

Date	Fees and by whom paid or payable	Names and address of person seeking employment	Names and addresses of those to whom the person is referred for employment	Nature of employment offered so far as known	Wages at per day or week as the case may be

Section 19.

FIFTH SCHEDULE.*The Employment Brokers Act, 1909.***Engagement Book.**

Date	Fees and by whom paid or payable	Names and address of employee	Names and address of employer	Nature of employment	Duration of employment so far as agreed upon	Wages at per day or week, as the case may be