

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney 26 November, 1975.*

## New South Wales



ANNO VICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

Act No. , 1975.

An Act to make further provisions with respect to the licensing of private employment agents and the fees payable to private employment agents by employees and employers; for these and other purposes to amend the Industrial Arbitration Act, 1940.

BE



*Industrial Arbitration (Employment Agencies) Amendment.*

BE it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows:—

1. This Act may be cited as the "Industrial Arbitration Short  
(Employment Agencies) Amendment Act, 1975". title.

2. (1) This section and section 1 shall commence on Commence-  
the date of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act  
shall commence on such day as may be appointed by the  
Governor in respect thereof and as may be notified by  
proclamation published in the Gazette.

3. The Industrial Arbitration Act, 1940, is, in this Act, Principal  
15 referred to as the Principal Act. Act.

4. The Principal Act is amended—

Amendment  
of Act No.  
2, 1940.

(a) by omitting from section 2 the matter relating to Sec. 2.  
Divisions 2 and 3 of Part XIV and by inserting (Division  
instead the following matter :— into  
Parts.)

20 DIVISION 2.—*Theatrical agencies and em-  
ployers—ss. 136–145.*

DIVISION 2A.—*Private employment agents—ss.  
145A–145R.*

25 DIVISION 3.—*General provisions for the purposes  
of Part XIV—ss. 146–153.*

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) by inserting at the end of section 5 (1) the following definition :— Sec. 5.  
(Interpretation.)

5                   “Under Secretary” means the person for the time  
                      being holding the office of, or acting as,  
                      Under Secretary of the Department of  
                      Labour and Industry.

- (c) (i) by omitting from section 92 (6) the words Sec. 92.  
(Recovery of wages.)  
                      “of the Department of Labour and Industry”;

10                   (ii) by omitting from section 92 (6) the word  
                      “said”;

- (d) by omitting the heading before section 136 and by Part XIV,  
Division 2:  
Heading.  
                      inserting instead the following heading :—

DIVISION 2.—*Theatrical agencies and employers.*

- 15                   (e) by omitting from section 136 the words “Part of Sec. 136.  
(Definitions.)  
                      this Act” and by inserting instead the words  
                      “Division and in Division 3,”;

- 20                   (f) (i) by omitting from section 137 (1) (a) the Sec. 137.  
(Persons carrying on  
theatrical agencies to be  
licensed and  
theatrical employers  
to hold permits.)  
                      words “open or carry on for profit any agency  
                      for procuring or assisting to procure  
                      employment or labour, or any business having  
                      as one of its purposes the bringing together  
                      of intending employers and persons seeking  
                      employment, or”;

25                   (ii) by omitting from section 137 (1) the words  
                      “Part of this Act” wherever occurring and by  
                      inserting instead the word “Division”;

(iii)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (iii) by omitting from section 137 (2) the words  
 "Every such license" and by inserting instead  
 the words "A license referred to in subsection  
 (1) (a)";
- 5 (iv) by omitting from section 137 (2) the words  
 "agency or business or";
- 10 (g) (i) by omitting from section 138 (1) the words Sec. 138.  
 "license or for the issue of a" and by inserting (Application for license.)  
 instead the words "theatrical agent's license  
 or for the issue of a theatrical employer's";
- (ii) by omitting from section 138 (2) the words 01  
 "Part of this Act" and by inserting instead  
 the word "Division";
- 15 (h) (i) by omitting from section 139 the words "Part Sec. 139.  
 of this Act" and by inserting instead the word (Licensee to keep registers.)  
 "Division";
- 20 (ii) by omitting from section 139 (a) the words  
 ", and pays a fee in respect of his application," 21  
 and by inserting instead the words "as a  
 theatrical performer";
- (iii) by omitting from section 139 (b) the words  
 "labour, and pays a fee in respect of his  
 application," and by inserting instead the  
 words "a theatrical performer"; 02
- 25 (i) (i) by inserting in section 140 after the word Sec. 140.  
 "licensees" the words "under this Division"; (Scale of fees.)
- (ii) by omitting from section 140 the words "or  
 businesses" wherever occurring; 22
- (j)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (j) (i) by inserting in section 141 (1) after the words "A licensee" the words "under this Division"; (No fees to be received except those prescribed.)
- 5 (ii) by omitting from section 141 (1) (a) the words "registration or engagement of any person" and by inserting instead the words "engagement of a theatrical performer";
- (iii) by inserting in section 141 (1) (c) before the word "employer" where firstly and secondly occurring the word "theatrical";
- 10 (iv) by omitting from section 141 (1) (c) the word "employee" and by inserting instead the words "theatrical performer";
- (v) by inserting in section 141 (1) (c) before the word "employer" where thirdly occurring the word "such";
- 15 (vi) by omitting from section 141 (1) (c) the words "a licensee" and by inserting instead the words "any such licensee";
- (vii) by inserting in section 141 (1) (d) after the word "employment" the words "as theatrical performers";
- 20 (viii) by inserting in section 141 (4) after the word "any" where firstly occurring the word "such";
- (ix) by inserting in section 141 (4) after the word "employment" the words "as theatrical performers";
- 25
- (k) by omitting section 142;

Sec. 142.  
(Registration  
fee to be  
repaid if  
employment  
or labour  
not found.)

(l)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (l) (i) by inserting in section 143 after the words "A  
licensee" wherever occurring the words "under  
this Division"; Sec. 143.  
(False  
statements  
or entries  
by licensees.)
- 5 (ii) by omitting from section 143 the words  
"registers for employment" and by inserting  
instead the words "applies to him for  
employment as a theatrical performer";
- 10 (iii) by omitting from section 143 the words "as in  
this Act provided" and by inserting instead the  
words "pursuant to section 139";
- (m) by inserting in section 144 after the word "licensee"  
the words "under this Division"; Sec. 144.  
(Conviction  
to be  
endorsed  
on license.)
- (n) by omitting from section 145 the words "Part of this  
Act" and by inserting instead the word "Division"; Sec. 145.  
(Cancell-  
ation of  
license or  
permit.)
- 15 (o) by inserting after section 145 the following  
Division : — Part XIV,  
Division 2A.

*DIVISION 2A.—Private employment agents.*

145A. In this Division, except in so far as the  
context or subject-matter otherwise indicates or  
requires— Interpre-  
tation:  
Division 2A.

"license" means a license in force under this  
Division;

"licensee" includes a person who holds a license  
jointly with another person or other persons;

25 "regulation" means a regulation made for the  
purposes of this Division or made pursuant  
to section 153.

**145B.**



*Industrial Arbitration (Employment Agencies) Amendment.*

145B. (1) Subject to this section and section 145c, a person carries on the business of a private employment agent if he acts as an agent— Business  
of  
private  
employment  
agent.

5 (a) for procuring or assisting to procure a person to carry out work for a person seeking to have work carried out; or

(b) for procuring or assisting to procure employment for a person seeking to be employed,

10 whether that employment or work is to be undertaken or carried out pursuant to a contract of employment, or otherwise.

15 (2) A person who prints or publishes in a newspaper within the meaning of the Printing and Newspapers Act, 1973, or in a document within the meaning of that Act, an advertisement placed by or on behalf of a person seeking to have work carried out or by or on behalf of a person seeking to be employed does not, by reason only  
20 of the printing and publishing of that advertisement, carry on the business of a private employment agent.

25 (3) A person who carries out any of the functions referred to in subsection (1) in the course of his employment by some other person does not, by reason only of his so carrying out those functions, carry on the business of a private employment agent.

30 145c. (1) The Governor may, by regulation, exempt any person or any class of persons from the operation of all or any of the provisions of this Division. Exemptions.

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

5 (3) Where an exemption under subsection (1) is given subject to conditions the exemption does not have effect during any period when the conditions are not being complied with.

10 (4) It is a sufficient defence to a prosecution arising under this Division if the defendant proves that at the relevant time he was a person, or a member of a class of persons, exempted from the operation of this Division by subsection (1) and, where that exemption was  
15 given subject to any condition, that he was, at that time, complying with that condition.

145D. (1) Subject to this Division, where a person carries on the business of a private employment agent—  
Private employment agents to be licensed.

20 (a) he shall not demand or receive any fee, charge or remuneration in respect of that business except in accordance with the authority of a license held by him; and

25 (b) he shall not, where he is the holder of a license, carry on that business at a place other than the place to which that or another license held by him relates.

(2)

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) A person who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

5 145E. (1) A person shall not act as the person in charge at the place of business to which a license relates unless— Persons to be in charge at each place of business.

10 (a) not being a corporation, he is the licensee, or one of a number of joint licensees, and the place of business is the place of business nominated under subsection (3) in respect of that licensee;

(b) he is a person appointed under subsection (4) in respect of that place of business; or

15 (c) he is not a person referred to in paragraph (a) or (b) and is so acting—

(i) for a period not exceeding one month in the place of an absent person so referred to; or

20 (ii) for a period not exceeding seven days pending an appointment under subsection (4).

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) A licensee or, where there are joint licensees, a joint licensee, shall not, in respect of a place of business to which his license relates, permit a contravention of subsection (1).

5 (3) Where a person is a licensee, or one of a number of joint licensees, in respect of more than one place of business, he shall not—

(a) act as the person in charge at more than one of those places of business; or

10 (b) act as the person in charge at any of those places of business unless he has, by instrument in writing signed by him or, where he is a joint licensee, by all of the joint licensees, and lodged with the Under Secretary, nominated that place as the place of business at which he will be the person in charge.

15 (4) A licensee may appoint a person as the person in charge at the place of business to which his license relates by lodging with the Under Secretary a notice in the prescribed form signed by the licensee or, where there are joint licensees, by all of the joint licensees, that contains the prescribed particulars.

20 (5) An appointment under subsection (4) takes effect on the day on which the prescribed form relating to the appointment is lodged with the Under Secretary or, where a later day is specified in the form, on that later day.

(6)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (6) A licensee shall not appoint a person as the person in charge at the place of business to which his license relates if the licensee knows, or ought reasonably to know, that within the last preceding period of twelve months—

(a) an application by that person for a license has been refused; or

(b) a license held by that person has been cancelled,

10 unless an industrial magistrate, upon an appeal under this Division against the refusal or cancellation, has found that person to be a fit person to hold, or continue to hold, a license.

15 (7) Subject to subsection (8), a nomination referred to in subsection (3) (b) or an appointment under subsection (4) ceases to have effect on the day on which a notice in or to the effect of the prescribed form, signed by or on behalf of the licensee of that place of business, is  
20 lodged with the Under Secretary.

25 (8) Where a notice referred to in subsection (7) specifies a day, being a day that is after the day on which the notice is lodged, as the day on which the nomination or appointment to which it relates ceases to have effect, that nomination or appointment, as the case may be, ceases to have effect on the day specified in the notice.

30 (9) A person who fails to comply with any of the provisions of this section is guilty of an offence and liable to a penalty not exceeding \$500.



*Industrial Arbitration (Employment Agencies) Amendment.*

145F. (1) An application for the grant of a license shall—

Application  
for license  
as private  
employment  
agent.

(a) be made in the prescribed form;

(b) contain the prescribed particulars;

5 (c) specify the class of license applied for;

(d) be accompanied by a page of a newspaper circulating generally throughout the State, being a page in which was published, at least seven, but not more than fourteen, days before the making of the application, a notice in the prescribed form with respect to the application;

(e) be accompanied by the prescribed fee; and

(f) be lodged with the Under Secretary.

15 (2) Where a business for which a license is required is to be carried on at more than one place of business, a separate application for the grant of a license in respect of each such place shall be lodged with the Under Secretary.

20 (3) A regulation made for the purposes of subsection (1) (a) or (b) may be made so as to apply differently according to such factors as may be specified in the regulation.

25 145G. (1) The Under Secretary may request the Commissioner of Police to report to him whether or not—

Inquiries  
and  
objections.

(a) an applicant for a license;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) a proposed partner of an applicant for a license in the business in respect of which the license is applied for;
- 5 (c) a director of a corporation that is an applicant for a license;
- (d) a director of a corporation that is a proposed partner of an applicant for a license in the business in respect of which the license is applied for; or
- 10 (e) a person in respect of whom notice of an appointment is lodged under section 145E (4),

15 is, or if he were the applicant for a license would be, a fit person to be the holder of a license and on receipt of any such request the Commissioner of Police shall cause to be made such inquiries as he deems necessary in order to comply with the request and shall furnish a report of the result of those inquiries to the Under Secretary.

20 (2) A person may, within twenty-one days after the publication of a notice referred to in section 145F (1) (d), lodge with the Under Secretary a notice of objection in respect of the application to which the notice relates.

25 (3) A notice of objection referred to in subsection (2) shall be a statutory declaration in or to the effect of the prescribed form, shall contain the prescribed particulars and shall be lodged in the prescribed manner.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (4) The Under Secretary may, by instrument in writing served on the applicant for a license or on a licensee who makes an appointment under section 145E (4), require that applicant or licensee or, where there is more than one, any one or more of them, to furnish within the period specified in the instrument such further information and documents as he may reasonably require in connection with the application or appointment and may specify in the instrument.

15 (5) An instrument referred to in subsection (4) may be served by sending the instrument by certified mail addressed to the applicant or licensee at his address last known to the Under Secretary or by causing it to be delivered to the applicant or licensee personally.

20 145H. (1) An application for the grant of a license shall not be dealt with before the expiration of fourteen days after the application is lodged with the Under Secretary. Disposal of applications for licenses.

(2) Where the Under Secretary is satisfied with respect to an application for the grant of a license—

25 (a) that the notice referred to in section 145F (1) (d) relating to the application has been duly published;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (b) in the case of an application for the grant of a license referred to in section 145i (1) (a), that the Under Secretary is not prohibited by section 145i (2) from granting to the applicant a license so referred to;

(c) that—

- (i) the applicant is;
- 10 (ii) where the applicant is a corporation—each director of the corporation is;
- 15 (iii) each proposed partner (if any) of the applicant in carrying on the business of a private employment agent is; and
- (iv) where any such proposed partner is a corporation—each director of that corporation is,

a fit person to hold a license;

20 (d) that—

- (i) where the applicant is not a corporation—the applicant is;
- 25 (ii) where the applicant is a corporation—each director of the applicant who is not himself a corporation is;

(iii)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

5 (iii) where a proposed partner (if any)  
of the applicant in carrying on the  
business of a private employment  
agent is not a corporation—that  
proposed partner is; and

(iv) where any such proposed partner is  
a corporation—each director of that  
corporation who is not himself a  
corporation is,

10 of or above the age of eighteen years; and

15 (e) that the premises specified in the application  
as being the place of business in respect of  
which the application is made are reasonably  
suitable for carrying on the business of a  
private employment agent,

the Under Secretary shall grant and issue to the  
applicant a license of the class applied for in respect  
of that place of business

20 (3) In considering for the purposes of  
subsection (2) (c) whether a person is or would be  
a fit person to hold a license the Under Secretary—

(a) shall, in the case of a person other than a  
corporation, have regard to his character;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) shall have regard to any report relating to that person furnished under section 145G (1) by the Commissioner of Police; and
- 5 (c) shall have regard to such other matters, including any matter specified in any notice of objection lodged under section 145G (2), as the Under Secretary considers relevant for the purpose of determining the fitness of the applicant to hold a license.
- 10 (4) Where, in relation to an application, the Under Secretary is not satisfied as to any one or more of the matters specified in subsection (2) he shall refuse the application and send to the applicant by certified mail addressed to the
- 15 applicant at his address last known to the Under Secretary, or deliver to the applicant personally, a notice in writing of the refusal.
- (5) In the case of an application made by more than one person it is a sufficient compliance with subsection (4) if the notice referred to in that
- 20 subsection is served on any one of the applicants.
- (6) A notice referred to in subsection (4) shall state the reasons for the refusal.
- (7) The day on which a notice referred to in subsection (4) is served is—
- 25 (a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or
- (b) where the notice is delivered to the applicant
- 30 personally, the day when it is so delivered.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

145I. (1) A license authorises the holder thereof, in respect of the carrying on by him of the business of a private employment agent at the place specified in the license—

Classes of  
licenses.

- 5 (a) to demand and receive a fee, charge or remuneration from any person; or
- (b) to demand and receive a fee, charge or remuneration only from a person who employs labour,

10 whichever is specified in the license.

(2) A license conferring the authority referred to in subsection (1) (a) shall not be granted after 31st December, 1980.

15 (3) Subject to this Division, a license conferring the authority referred to in subsection (1) (a) that is in force on 31st December, 1980—

- (a) ceases after that day to confer that authority; and
- 20 (b) takes effect after that day as a license conferring the authority referred to in subsection (1) (b).

145J. A license shall be in the prescribed form and, without prejudice to the inclusion in the license of any other particulars, shall—

Form of  
license.

- 25 (a) specify the name of the person to whom the license is issued or, where the license is issued to more than one person, the names of the persons to whom the license is issued;

- 30 (b) specify, in accordance with section 145I (1), the authority conferred by the license;

(c)



*Industrial Arbitration (Employment Agencies) Amendment.*

(c) specify the place of business in respect of which the license is granted ; and

(d) specify the day of issue of the license.

5           145K. (1) A license has effect from and including the day specified in the license as the day of issue of the license. <sup>Duration of license.</sup>

10           (2) Subject to this Division, a license continues in force until it is cancelled under subsection (3) or under section 145L (3) (a) or 145M.

(3) If, before the expiration of the year commencing on the day on which a license takes effect, or the expiration of any year commencing on the anniversary of that day, the licensee fails—

15           (a) to lodge with the Under Secretary a statement in writing signed by him that contains the prescribed information, compiled as at a day not earlier than one month before the expiration of that year ; or

20           (b) to pay the Under Secretary the prescribed fee for continuation of the license,

the Under Secretary may, at the expiration of the year so commencing during which the failure occurs, cancel the license.

25           (4) The provisions of section 145M (10) and (11) apply to a person whose license is cancelled under this section in the same way as they apply to a person whose license is cancelled under section 145M.

145L.



*Industrial Arbitration (Employment Agencies) Amendment.*

145L. (1) Where—

Notice of  
changed  
particulars.

- (a) a licensee ceases to carry on the business of a private employment agent;
- 5 (b) the business of a licensee is carried on at a place other than the place specified in the license;
- (c) the name under which a licensee carries on business is changed;
- 10 (d) the name of a corporation that is a licensee is changed;
- (e) a license is held by a corporation and the directors of the corporation are changed;
- 15 (f) the nomination of a place of business under section 145E (3) (b) ceases to have effect or a licensee is, or is likely to be, absent for a period exceeding one month from the place of business so nominated as the place of business at which he is the person in charge;
- 20 (g) an appointment under section 145E (4) in respect of a place of business of a licensee ceases to have effect or the appointee is, or is likely to be, absent from that place of business for a period exceeding one month;
- 25 or
- (h) any other prescribed event relating to a license or licensee occurs,

the



*Industrial Arbitration (Employment Agencies) Amendment.*

5 the licensee shall, within the prescribed time and in  
the prescribed manner, notify the Under Secretary  
of the occurrence of that event and of such  
particulars as may be prescribed in respect of the  
event and shall, when giving notice of an event  
specified in paragraph (a), (b), (c) or (d)  
surrender the license to the Under Secretary, for  
cancellation in the case of the event specified in  
10 paragraph (a) or for amendment in the case of an  
event specified in paragraph (b), (c) or (d).

15 (2) A regulation prescribing other events  
in respect of which notice shall be given to the  
Under Secretary may require the licensee to  
surrender his license for cancellation or amendment  
when giving notice of the event.

(3) The Under Secretary—

(a) shall cancel a license surrendered for  
cancellation; or  
20 (b) may amend a license surrendered for  
amendment,

pursuant to subsection (1) or a regulation made  
pursuant to subsection (2).

25 (4) A licensee who fails to comply  
with the provisions of subsection (1) is guilty of an  
offence and liable to a penalty not exceeding \$200.

145M. (1) The Under Secretary may, for such  
reason as he thinks fit, cancel a license. Cancellation  
of license.

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) Without limiting the generality of subsection (1), the Under Secretary may cancel a license if he is satisfied—

- 5 (a) that a licensee or a director of a corporation that is a licensee made a statement in or in connection with—
  - (i) the application for the grant of the license; or
  - 10 (ii) a statement referred to in section 145K (3) (a),  
 that was false or misleading in a material particular;
- (b) that a licensee is not a fit person to continue to be the holder of the license;
- 15 (c) that a director of a corporation that is a licensee would not, if he were the holder of a license, be a fit person to continue to be the holder of the license;
- 20 (d) that a corporation, being a licensee, is not a fit person to continue to be the holder of the license;
- 25 (e) that a person appointed by a licensee to be the person in charge at the place of business in respect of which the license is issued would not, if he were the holder of a license, be or, as the case may be, continue to be, a fit person to be the holder of a license;
- (f) that a licensee has failed to comply with the provisions of section 145L (1);

(g)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (g) that the business of a licensee as a private employment agent has not been or is not being properly conducted;
  - 5 (h) that the premises in which the business of a licensee is being carried on are not, or have ceased to be, reasonably suitable for carrying on the business of a private employment agent; or
  - 10 (i) that a licensee has been convicted of an offence against this Division.
- (3) Where he proposes to cancel a license the Under Secretary shall, except where—
- 15 (a) a request has been made by the licensee or all of the joint licensees for the cancellation; or
  - (b) the Under Secretary is satisfied—
    - (i) that the licensee, not being a corporation, has died;
    - 20 (ii) that a partnership being carried on by joint licensees has been dissolved; or
    - (iii) that the licensee, being a corporation, has been wound up,
  - 25 give the licensee a notice in writing setting forth the reasons for the proposed cancellation and requiring the licensee, within such period as is specified in the notice, to show cause why the license should not be cancelled.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

(4) Where upon the expiration of the period specified in any notice given pursuant to subsection (3), or of such further period as the Under Secretary may allow, the Under Secretary  
5 cancels a license he shall cause a notice of cancellation to be served on the licensee by sending the notice by certified mail addressed to the licensee at the place of business in respect of which the license  
10 was granted, or by causing it to be delivered to the licensee personally.

(5) In the case of a license issued to joint licensees it is a sufficient compliance with subsection (4) if the notice of cancellation is served on any one of the joint licensees.

15 (6) A notice of cancellation shall state the reasons for the cancellation of the license.

(7) Subject to subsection (8), the cancellation of a license takes effect upon the expiration of the day that is twenty-one days after  
20 the day on which the notice of cancellation is served.

(8) Where a licensee appeals under section 145N against the cancellation of the license, the cancellation shall have effect—

25 (a) only if the industrial magistrate hearing the appeal confirms the cancellation or if the appeal is withdrawn; and

(b) on the day on which the industrial magistrate confirms the cancellation, or such later day as the industrial magistrate orders or, if the  
30 appeal is withdrawn, on the day on which it is withdrawn.

(9)



*Industrial Arbitration (Employment Agencies) Amendment.*

(9) The day on which a notice of cancellation is served is—

- 5 (a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or
- (b) where the notice is delivered to the licensee personally, the day when it is so delivered.

10 (10) A person who was the holder of a license and who, upon the cancellation of the license taking effect, fails to forthwith deliver the license to the Under Secretary is guilty of an offence and liable to a penalty not exceeding \$200.

15 (11) A person who was a joint licensee is not guilty of an offence referred to in subsection (10) if another of the persons who were joint licensees delivers the license to the Under Secretary.

145N. (1) In subsection (5), "day of service" Appeals. means—

- 20 (a) in the case of an appeal against a refusal to grant a license, the day of service of the notice of refusal; and
- (b) in the case of an appeal against a cancellation of a license, the day of service of the notice of cancellation.

25 (2) An applicant for the grant of a license may appeal to an industrial magistrate against the refusal of the Under Secretary to grant the license.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A licensee may appeal to an industrial magistrate against the cancellation by the Under Secretary of the license.

5 (4) Where an application for the grant  
of a license made by more than one person is refused  
or a license held by more than one person is  
cancelled, an appeal under this section against the  
refusal or cancellation may be made by any of the  
10 applicants or licensees, as the case may be, on  
behalf of all of the applicants or licensees, or by all  
of the applicants or licensees jointly, but not  
otherwise.

15 (5) Notice of an appeal under this  
section, specifying the grounds of appeal, shall be  
lodged with the registrar not later than twenty-one  
days after the day of service.

20 (6) The registrar shall give notice of the  
time and place of the hearing of an appeal under  
this section to the Under Secretary and to the  
person or persons appealing and shall state in the  
notice to the Under Secretary the grounds of the  
appeal.

25 (7) The hearing of an appeal may  
proceed notwithstanding any omission or error in a  
notice under subsection (6) or the failure to give  
any such notice if the industrial magistrate is satis-  
fied that any person appealing and the Under  
Secretary had knowledge of the time and place of  
the hearing and were not prejudiced by any such  
30 omission or error or by failure to give any such  
notice.

(8)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

5 (8) Where relevant, a report furnished pursuant to section 145G (1) to the Under Secretary by the Commissioner of Police and certified by the Under Secretary to have been so furnished shall be received in proceedings before an industrial magistrate under this section as evidence of the contents of the report.

10 (9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm or disallow the refusal or cancellation appealed against.

15 (10) Where a license is refused or cancelled on the ground that a person named in the application, or the licensee, as the case may be, is not a fit person to be, or continue to be, the holder of a license, the industrial magistrate hearing and determining the appeal shall determine whether or not that person or licensee is a fit person to be, or continue to be, the holder of a license.

20 (11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person or persons appealing and on the Under Secretary, who shall take such steps as may be  
25 necessary to give effect to the decision.

30 (12) Subject to this section, where regulations are made relating to the institution, hearing and determination of an appeal under this section, any such appeal shall be instituted, heard and determined in accordance with those regulations.



*Industrial Arbitration (Employment Agencies) Amendment.*

145o. (1) The Under Secretary shall keep a register, in such form as he determines, of licenses issued under this Division and shall record therein in respect of each license—

- 5 (a) the matters which under section 145J are required to be specified in the license;
- (b) particulars of any fees paid, or due but not paid, in respect of the license under section 145K (3) (b);
- 10 (c) particulars of any amendment of the license made pursuant to section 145L (3) (b);
- (d) particulars of any cancellation of the license under section 145K (3), 145L (3) (a) or 145M; and
- 15 (e) such other matters as may be prescribed.

(2) The Under Secretary shall keep a register, in such form as he determines, containing—

- 20 (a) particulars of the name of each licensee who has been specified in an instrument referred to in section 145E (3) (b) as the person in charge at the place of business nominated in that instrument and particulars of the name of each person who has been appointed in accordance with section 145E
- 25 (4);
- (b) particulars of each place of business so nominated and each place of business to which such an appointment relates;

(c)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

5 (c) particulars of the date on which a nomination under section 145E (3) (b) and an appointment under section 145E (4) takes effect or ceases to have effect, as the case may require;

10 (d) if he causes a notice of cancellation to be served on a licensee on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license, a note to that effect; and

15 (e) particulars of the result of any appeal against the cancellation of a license on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license.

20 (3) The Under Secretary may make such alterations in the registers referred to in subsections (1) and (2) as are necessary to ensure that the matters recorded therein in respect of any license or person are accurate.

25 (4) A certificate purporting to be signed by the Under Secretary certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1) or (2) did or did not appear in the registers referred to in those subsections shall, in all courts and upon all occasions, without proof of the signature of the Under Secretary and without the production of any record or document upon which the certificate is founded, be evidence of the particulars certified in and by the certificate.

30



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

145P. Anything authorised or required by or Performance of Under Secretary's functions.  
under this Division to be done by, lodged with or  
paid to the Under Secretary may be done by, lodged  
with or paid to any officer of the Department of  
5 Labour and Industry who is authorised generally  
or specially in that behalf in writing by the Under  
Secretary, and anything purporting to have been  
done by, lodged with or paid to an officer so  
authorised shall be deemed to have been done by,  
10 lodged with or paid to the Under Secretary.

145Q. (1) The holder of a license referred to Prescribed amount not to be exceeded.  
in section 145I (1) (a) who, in respect of the  
carrying on by him of any of the functions of a  
15 private employment agent, directly or indirectly  
demands or receives from a person seeking work or  
seeking to be employed, pursuant to a contract of  
employment or otherwise—

(a) an amount by way of a fee, charge or  
remuneration that is greater than the pre-  
20 scribed amount; or

(b) a reward or consideration in addition to or  
instead of any amount that he may lawfully  
so demand or receive,

25 is guilty of an offence and liable to a penalty not  
exceeding \$500.

(2) The prescribed amount referred to in  
subsection (1) may be—

(a) a monetary amount; or

30 (b) a percentage of the salary, wage or remuneration payable to a person in respect of that person's employment during such period as is prescribed.

(3)



*Industrial Arbitration (Employment Agencies) Amendment.*

(3) A regulation may be made requiring a licensee who has arranged for the employment of a person, at the option of the employee—

5 (a) to refund any amount paid to the licensee in consideration of that arrangement; or

(b) to find alternative employment for that person,

10 if the employment is terminated, in the circumstances specified in the regulation, before the expiration of two weeks or, where the employment was arranged for a period of less than two weeks, before the expiration of that period.

15 (4) A regulation made for the purposes of subsection (2) or (3) may be made so as to apply differently according to such factors as are specified in the regulation.

145R. (1) A licensee who—

20 (a) fails to keep a register or registers, in such form as is approved by the Under Secretary, containing particulars of the name and address of every person who applies to him for employment and of every person who applies to him for labour and the nature of the employment or labour required or to  
25 retain a register so kept for a period of twelve months after the making of the last entry therein;

30 (b) fails to keep a register, in such form as is approved by the Under Secretary, containing particulars of all engagements made by

Offences  
by  
licensees.

or



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- 5 or through the licensee, of any fee, charge or remuneration received in respect of any such engagement and of the name of the person from whom any such fee, charge or remuneration was received or to retain any such register for a period of twelve months after the making of the last entry therein;
- 10 (c) fails to retain the originals of all letters received by the licensee in connection with his business as a private employment agent for the period of twelve months after their receipt;
- 15 (d) fails to permit the Under Secretary or an officer authorised by him, at any reasonable hour, to inspect the registers referred to in paragraphs (a) and (b) and the letters referred to in paragraph (c);
- 20 (e) fails to inform a person who applies to him for employment of the prescribed amount, if any, that may be payable by that person;
- 25 (f) where the Under Secretary, by notice in writing served in the manner specified in section 145M (4), requires that licensee to furnish him, within such time as is, or at such times as are, specified in the notice, with information in writing relating to all or any of the particulars contained in the register referred to in paragraph (b), fails to furnish that information within the time or at any of the times so specified;
- 30 (g) except when the license issued to him has been surrendered to the Under Secretary in accordance with this Division, fails to display the license in a conspicuous position in the premises to which it relates;
- 35 (h)



*Industrial Arbitration (Employment Agencies) Amendment.*

(h) makes any false entry in a register referred to in paragraph (a) or (b);

(i) advertises or causes to be advertised, or publishes or causes to be published, any matter that, by its tenor, suggests, implies or infers that the matter is not advertised or published by or on behalf of a private employment agent; or

(j) advertises or causes to be advertised a position as being available when no such position exists,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) Where a corporation commits an offence under this Part and the offence is proved to have been committed with the consent or approval of a director, secretary or manager of the corporation, that director, secretary or manager is also guilty of that offence and liable to the penalty provided in respect of that offence.

(p) by inserting before section 146 the following heading :—

Part XIV,  
Division 3:  
Heading.

*DIVISION 3.—General provisions for the purposes of Part XIV.*

(q) (i) by inserting in section 146 after the word "license" where firstly occurring the words "under this Part";

Sec. 146.  
(Where  
license  
cancelled  
holder not  
qualified  
to obtain  
license.)

(ii) by inserting in section 146 after the word "hold" the word "such";



*Industrial Arbitration (Employment Agencies) Amendment.*

- (r) by inserting in section 147 after the word "licensee" the words "under this Part"; Sec. 147.  
(Production of license.)
- 5 (s) by omitting from section 148 the words ", and on the payment of ten cents, the Minister may, at the request" and by inserting instead the following words :— Sec. 148.  
(Loss or destruction of license.)
- under this Part—
- (a) where the license is a license issued under Division 2, the Minister; and
- 10 (b) where the license is a license issued under Division 2A, the Under Secretary,
- may, at the request;
- (t) by omitting the heading before section 149; Part XIV,  
Division 3:  
Heading.
- 15 (u) by omitting from section 149 the words "this Part of this Act" and by inserting instead the matter "Division 2"; Sec. 149.  
(Offences.)
- (v) by omitting from section 150 the words "of this Act" wherever occurring; Sec. 150.  
(Penalty for contravention of Act.)
- 20 (w) (i) by omitting from section 151 the words "of this Act"; Sec. 151.  
(Who may take proceedings.)
- (ii) by omitting from section 151 the words "by any" and by inserting instead the words "only by a";

(x)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (x) by inserting in section 152 after the word "pre-  
scribed" the words "for the purposes of Division 2";
- (y) by omitting from section 153 the words "of this Act"  
wherever occurring.

Sec. 152.  
(Copy of  
entries in  
registers  
to be  
evidence.)  
Sec. 153.  
(Regula-  
tions.)

5 5. (1) A license, not being a license to open or carry on  
a theatrical agency, referred to in section 137 (1) (a) of the  
Principal Act and in force immediately before the commence-  
ment of section 4 shall, upon that commencement, be deemed  
to be a license referred to in section 145I (1) (a) of that Act,  
10 as amended by section 4, that—

Transitional  
and saving  
provisions.

- (a) is issued to the person named in the license;
- (b) is issued in respect of the place of business specified  
in the license or, where the business is being con-  
ducted at some other place and the Minister or the  
15 Under Secretary of the Department of Labour and  
Industry has been notified thereof in writing, the  
place of business so notified; and
- (c) subject to subsection (4), continues in force until  
it is cancelled under section 145K (3), 145L (3)  
20 (a) or 145M of that Act, as so amended.

(2) Where, immediately before the commencement of  
section 4, an application made under the provisions of section  
138 of the Principal Act has not been determined, that  
application shall be determined as if this Act had not been  
enacted.

(3) Subsection (1) applies to and in respect of a  
license granted pursuant to an application referred to in  
subsection (2) in the same way as it applies to a license in  
force immediately before the commencement of section 4.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

(4) Where the holder of a license referred to in subsection (1) or (3) surrenders the license held by him that, by subsection (1), is deemed to be a license referred to in section 145I (1) (a) of the Principal Act, as amended by 5 section 4, the Under Secretary of the Department of Labour and Industry may, if that license is still in force—

10 (a) unless that person makes the request referred to in paragraph (b), without fee issue to that person a license referred to in section 145I (1) (a) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license; or

15 (b) where that person so requests, without fee issue to that person a license referred to in section 145I (1) (b) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the  
20 license,

and upon the issue of any such license the provisions of subsection (1) cease to have effect in relation to the surrendered license.

(5) Where a license, not being a license to open or 25 carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act, as amended by section 4, specifies the names of more than one person those persons shall, upon the operation of subsection (1), be deemed to be joint licensees under Division 2A of Part XIV of the Principal Act, 30 as amended by section 4.

(6)



*Industrial Arbitration (Employment Agencies) Amendment.*

(6) Where before the commencement of section 4 the Under Secretary of the Department of Labour and Industry was notified in writing of the name of a person who is to have, or has, the management of the business of a private employment agent carried on at a specified place the licensee carrying on that business shall, subject to section 145E (7) and (8) of the Principal Act, as amended by section 4, be deemed—

(a) where the person to whom the notification relates is not the licensee or one of a number of joint licensees—to have appointed that person under section 145E (4) of that Act, as so amended, to be the person in charge at that place of business; or

(b) where the person to whom the notification relates is the licensee or one of a number of joint licensees—to have nominated that place of business under section 145E (3) of that Act, as so amended, as the place of business at which he is the person in charge.

(7) A reference in subsection (6) to a notification is, where there was more than one such notification, a reference to the later or latest such notification.

(8) A person who, immediately before the commencement of section 4, is the holder of a license, not being a license to open or carry on a theatrical agency, issued under the Principal Act—

(a) who fails to retain for the period of six months following that commencement the originals of all letters received by him in connection with his business as a private employment agent during the period of six months that immediately preceded that commencement;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (b) who has in his possession or under his control any registers referred to in section 139 of the Principal Act and who fails, after that commencement, to retain those registers for the period of twelve months following that commencement; or

10 (c) who fails to permit the Under Secretary of the Department of Labour and Industry or an officer authorised by him to inspect the letters referred to in paragraph (a) and the registers referred to in paragraph (b),

is guilty of an offence and liable to a penalty not exceeding \$500.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975  
[40c]











No. , 1975.

---

## A BILL

To make further provisions with respect to the licensing of private employment agents and the fees payable to private employment agents by employees and employers; for these and other purposes to amend the Industrial Arbitration Act, 1940.

[SIR ERIC WILLIS—20 November, 1975.]

---

BE



*Industrial Arbitration (Employment Agencies) Amendment.*

BE it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows:—

1. This Act may be cited as the "Industrial Arbitration Short  
(Employment Agencies) Amendment Act, 1975". title.

2. (1) This section and section 1 shall commence on Commence-  
the date of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act  
shall commence on such day as may be appointed by the  
Governor in respect thereof and as may be notified by  
proclamation published in the Gazette.

3. The Industrial Arbitration Act, 1940, is, in this Act, Principal  
15 referred to as the Principal Act. Act.

4. The Principal Act is amended— Amendment  
of Act No.  
2, 1940.

(a) by omitting from section 2 the matter relating to Sec. 2.  
Divisions 2 and 3 of Part XIV and by inserting (Division  
instead the following matter :— into  
Parts.)

20 DIVISION 2.—*Theatrical agencies and em-  
ployers—ss. 136–145.*

DIVISION 2A.—*Private employment agents—ss.  
145A–145R.*

25 DIVISION 3.—*General provisions for the purposes  
of Part XIV—ss. 146–153.*

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) by inserting at the end of section 5 (1) the following definition :—

Sec. 5.  
(Interpretation.)

5 “Under Secretary” means the person for the time being holding the office of, or acting as, Under Secretary of the Department of Labour and Industry.

- (c) (i) by omitting from section 92 (6) the words “of the Department of Labour and Industry”;

Sec. 92.  
(Recovery of wages.)

10 (ii) by omitting from section 92 (6) the word “said”;

- (d) by omitting the heading before section 136 and by inserting instead the following heading :—

Part XIV,  
Division 2:  
Heading.

*DIVISION 2.—Theatrical agencies and employers.*

- 15 (e) by omitting from section 136 the words “Part of this Act” and by inserting instead the words “Division and in Division 3,”;

Sec. 136.  
(Definitions.)

20 (f) (i) by omitting from section 137 (1) (a) the words “open or carry on for profit any agency for procuring or assisting to procure employment or labour, or any business having as one of its purposes the bringing together of intending employers and persons seeking employment, or”;

Sec. 137.  
(Persons carrying on theatrical agencies to be licensed and theatrical employers to hold permits.)

25 (ii) by omitting from section 137 (1) the words “Part of this Act” wherever occurring and by inserting instead the word “Division”;

(iii)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (iii) by omitting from section 137 (2) the words  
 "Every such license" and by inserting instead  
 the words "A license referred to in subsection  
 (1) (a)";
- 5 (iv) by omitting from section 137 (2) the words  
 "agency or business or";
- (g) (i) by omitting from section 138 (1) the words Sec. 138.  
 "license or for the issue of a" and by inserting (Application for license.)  
 instead the words "theatrical agent's license  
 10 or for the issue of a theatrical employer's";
- (ii) by omitting from section 138 (2) the words  
 "Part of this Act" and by inserting instead  
 the word "Division";
- 15 (h) (i) by omitting from section 139 the words "Part Sec. 139.  
 of this Act" and by inserting instead the word (Licensee to keep registers.)  
 "Division";
- (ii) by omitting from section 139 (a) the words  
 ", and pays a fee in respect of his application,"  
 and by inserting instead the words "as a  
 20 theatrical performer";
- (iii) by omitting from section 139 (b) the words  
 "labour, and pays a fee in respect of his  
 application," and by inserting instead the  
 words "a theatrical performer";
- 25 (i) (i) by inserting in section 140 after the word Sec. 140.  
 "licensees" the words "under this Division"; (Scale of fees.)
- (ii) by omitting from section 140 the words "or  
 businesses" wherever occurring;
- (j)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (j) (i) by inserting in section 141 (1) after the words "A licensee" the words "under this Division"; (No fees to be received except those prescribed.)
- (ii) by omitting from section 141 (1) (a) the words "registration or engagement of any person" and by inserting instead the words "engagement of a theatrical performer";
- (iii) by inserting in section 141 (1) (c) before the word "employer" where firstly and secondly occurring the word "theatrical";
- (iv) by omitting from section 141 (1) (c) the word "employee" and by inserting instead the words "theatrical performer";
- (v) by inserting in section 141 (1) (c) before the word "employer" where thirdly occurring the word "such";
- (vi) by omitting from section 141 (1) (c) the words "a licensee" and by inserting instead the words "any such licensee";
- (vii) by inserting in section 141 (1) (d) after the word "employment" the words "as theatrical performers";
- (viii) by inserting in section 141 (4) after the word "any" where firstly occurring the word "such";
- (ix) by inserting in section 141 (4) after the word "employment" the words "as theatrical performers";

(k) by omitting section 142;

Sec. 142.  
(Registration fee to be repaid if employment or labour not found.)

(1)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (l) (i) by inserting in section 143 after the words "A licensee" wherever occurring the words "under this Division"; Sec. 143.  
(False statements or entries by licensees.)
- 5 (ii) by omitting from section 143 the words "registers for employment" and by inserting instead the words "applies to him for employment as a theatrical performer";
- 10 (iii) by omitting from section 143 the words "as in this Act provided" and by inserting instead the words "pursuant to section 139";
- (m) by inserting in section 144 after the word "licensee" the words "under this Division"; Sec. 144.  
(Conviction to be endorsed on license.)
- (n) by omitting from section 145 the words "Part of this Act" and by inserting instead the word "Division"; Sec. 145.  
(Cancellation of license or permit.)
- 15 (o) by inserting after section 145 the following Part XIV,  
Division 2A.  
Division : —

*DIVISION 2A.—Private employment agents.*

145A. In this Division, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-  
tation:  
Division 2A.

20

"license" means a license in force under this Division;

"licensee" includes a person who holds a license jointly with another person or other persons;

25 "regulation" means a regulation made for the purposes of this Division or made pursuant to section 153.

145B.



*Industrial Arbitration (Employment Agencies) Amendment.*

145B. (1) Subject to this section and section 145C, a person carries on the business of a private employment agent if he acts as an agent—

Business  
of  
private  
employment  
agent.

- 5 (a) for procuring or assisting to procure a person to carry out work for a person seeking to have work carried out; or
- (b) for procuring or assisting to procure employment for a person seeking to be employed,

10 whether that employment or work is to be undertaken or carried out pursuant to a contract of employment, or otherwise.

15 (2) A person who prints or publishes in a newspaper within the meaning of the Printing and Newspapers Act, 1973, or in a document within the meaning of that Act, an advertisement placed by or on behalf of a person seeking to have work carried out or by or on behalf of a person seeking to be employed does not, by reason only

20 of the printing and publishing of that advertisement, carry on the business of a private employment agent.

25 (3) A person who carries out any of the functions referred to in subsection (1) in the course of his employment by some other person does not, by reason only of his so carrying out those functions, carry on the business of a private employment agent.

30 145C. (1) The Governor may, by regulation, exempt any person or any class of persons from the operation of all or any of the provisions of this Division.

Exemptions.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

5 (3) Where an exemption under subsection (1) is given subject to conditions the exemption does not have effect during any period when the conditions are not being complied with.

10 (4) It is a sufficient defence to a prosecution arising under this Division if the defendant proves that at the relevant time he was a person, or a member of a class of persons, exempted from the operation of this Division by subsection (1) and, where that exemption was  
15 given subject to any condition, that he was, at that time, complying with that condition.

145D. (1) Subject to this Division, where a person carries on the business of a private employment agent—  
Private employment agents to be licensed.

20 (a) he shall not demand or receive any fee, charge or remuneration in respect of that business except in accordance with the authority of a license held by him; and

25 (b) he shall not, where he is the holder of a license, carry on that business at a place other than the place to which that or another license held by him relates.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) A person who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

5           145E. (1) A person shall not act as the person in charge at the place of business to which a license relates unless— Persons to be in charge at each place of business.

10                   (a) not being a corporation, he is the licensee, or one of a number of joint licensees, and the place of business is the place of business nominated under subsection (3) in respect of that licensee;

                 (b) he is a person appointed under subsection (4) in respect of that place of business; or

15                   (c) he is not a person referred to in paragraph (a) or (b) and is so acting—

                         (i) for a period not exceeding one month in the place of an absent person so referred to; or

20                           (ii) for a period not exceeding seven days pending an appointment under subsection (4).

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) A licensee or, where there are joint licensees, a joint licensee, shall not, in respect of a place of business to which his license relates, permit a contravention of subsection (1).

5 (3) Where a person is a licensee, or one of a number of joint licensees, in respect of more than one place of business, he shall not—

(a) act as the person in charge at more than one of those places of business; or

10 (b) act as the person in charge at any of those places of business unless he has, by instrument in writing signed by him or, where he is a joint licensee, by all of the joint  
15 licensees, and lodged with the Under Secretary, nominated that place as the place of business at which he will be the person in charge.

(4) A licensee may appoint a person as the person in charge at the place of business to which his license relates by lodging with the Under  
20 Secretary a notice in the prescribed form signed by the licensee or, where there are joint licensees, by all of the joint licensees, that contains the prescribed particulars.

25 (5) An appointment under subsection (4) takes effect on the day on which the prescribed form relating to the appointment is lodged with the Under Secretary or, where a later day is specified in the form, on that later day.

(6)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (6) A licensee shall not appoint a person as the person in charge at the place of business to which his license relates if the licensee knows, or ought reasonably to know, that within the last preceding period of twelve months—

(a) an application by that person for a license has been refused; or

(b) a license held by that person has been cancelled,

10 unless an industrial magistrate, upon an appeal under this Division against the refusal or cancellation, has found that person to be a fit person to hold, or continue to hold, a license.

15 (7) Subject to subsection (8), a nomination referred to in subsection (3) (b) or an appointment under subsection (4) ceases to have effect on the day on which a notice in or to the effect of the prescribed form, signed by or on behalf of the licensee of that place of business, is  
20 lodged with the Under Secretary.

25 (8) Where a notice referred to in subsection (7) specifies a day, being a day that is after the day on which the notice is lodged, as the day on which the nomination or appointment to which it relates ceases to have effect, that nomination or appointment, as the case may be, ceases to have effect on the day specified in the notice.

30 (9) A person who fails to comply with any of the provisions of this section is guilty of an offence and liable to a penalty not exceeding \$500.



*Industrial Arbitration (Employment Agencies) Amendment.*

145F. (1) An application for the grant of a license shall—

Application  
for license  
as private  
employment  
agent.

(a) be made in the prescribed form;

(b) contain the prescribed particulars;

5 (c) specify the class of license applied for;

(d) be accompanied by a page of a newspaper circulating generally throughout the State, being a page in which was published, at least seven, but not more than fourteen, days before the making of the application, a notice in the prescribed form with respect to the application;

10

(e) be accompanied by the prescribed fee; and

(f) be lodged with the Under Secretary.

15

(2) Where a business for which a license is required is to be carried on at more than one place of business, a separate application for the grant of a license in respect of each such place shall be lodged with the Under Secretary.

20

(3) A regulation made for the purposes of subsection (1) (a) or (b) may be made so as to apply differently according to such factors as may be specified in the regulation.

25

145G. (1) The Under Secretary may request the Commissioner of Police to report to him whether or not—

Inquiries  
and  
objections.

(a) an applicant for a license;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) a proposed partner of an applicant for a license in the business in respect of which the license is applied for;
  - 5 (c) a director of a corporation that is an applicant for a license;
  - (d) a director of a corporation that is a proposed partner of an applicant for a license in the business in respect of which the license is applied for; or
  - 10 (e) a person in respect of whom notice of an appointment is lodged under section 145E (4),
- 15 is, or if he were the applicant for a license would be, a fit person to be the holder of a license and on receipt of any such request the Commissioner of Police shall cause to be made such inquiries as he deems necessary in order to comply with the request and shall furnish a report of the result of those inquiries to the Under Secretary.
- 20 (2) A person may, within twenty-one days after the publication of a notice referred to in section 145F (1) (d), lodge with the Under Secretary a notice of objection in respect of the application to which the notice relates.
- 25 (3) A notice of objection referred to in subsection (2) shall be a statutory declaration in or to the effect of the prescribed form, shall contain the prescribed particulars and shall be lodged in the prescribed manner.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (4) The Under Secretary may, by instrument in writing served on the applicant for a license or on a licensee who makes an appointment under section 145E (4), require that applicant or licensee or, where there is more than one, any one or more of them, to furnish within the period specified in the instrument such further information and documents as he may reasonably require in connection with the application or appointment and may specify in the instrument.

15 (5) An instrument referred to in subsection (4) may be served by sending the instrument by certified mail addressed to the applicant or licensee at his address last known to the Under Secretary or by causing it to be delivered to the applicant or licensee personally.

20 145H. (1) An application for the grant of a license shall not be dealt with before the expiration of fourteen days after the application is lodged with the Under Secretary. <sup>Disposal of applications for licenses.</sup>

(2) Where the Under Secretary is satisfied with respect to an application for the grant of a license—

25 (a) that the notice referred to in section 145F (1) (d) relating to the application has been duly published;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (b) in the case of an application for the grant of a license referred to in section 145I (1) (a), that the Under Secretary is not prohibited by section 145I (2) from granting to the applicant a license so referred to;

(c) that—

- (i) the applicant is;
- 10 (ii) where the applicant is a corporation—each director of the corporation is;
- 15 (iii) each proposed partner (if any) of the applicant in carrying on the business of a private employment agent is; and
- (iv) where any such proposed partner is a corporation—each director of that corporation is,

a fit person to hold a license;

20 (d) that—

- (i) where the applicant is not a corporation—the applicant is;
- 25 (ii) where the applicant is a corporation—each director of the applicant who is not himself a corporation is;

(iii)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

5 (iii) where a proposed partner (if any) of the applicant in carrying on the business of a private employment agent is not a corporation—that proposed partner is; and

(iv) where any such proposed partner is a corporation—each director of that corporation who is not himself a corporation is,

10 of or above the age of eighteen years; and

15 (e) that the premises specified in the application as being the place of business in respect of which the application is made are reasonably suitable for carrying on the business of a private employment agent,

the Under Secretary shall grant and issue to the applicant a license of the class applied for in respect of that place of business

20 (3) In considering for the purposes of subsection (2) (c) whether a person is or would be a fit person to hold a license the Under Secretary—

(a) shall, in the case of a person other than a corporation, have regard to his character;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) shall have regard to any report relating to that person furnished under section 145G (1) by the Commissioner of Police; and
- 5 (c) shall have regard to such other matters, including any matter specified in any notice of objection lodged under section 145G (2), as the Under Secretary considers relevant for the purpose of determining the fitness of the applicant to hold a license.
- 10 (4) Where, in relation to an application, the Under Secretary is not satisfied as to any one or more of the matters specified in subsection (2) he shall refuse the application and send to the applicant by certified mail addressed to the applicant at his address last known to the Under Secretary, or deliver to the applicant personally, a

15 notice in writing of the refusal.
- (5) In the case of an application made by more than one person it is a sufficient compliance with subsection (4) if the notice referred to in that subsection is served on any one of the applicants.

20
- (6) A notice referred to in subsection (4) shall state the reasons for the refusal.
- (7) The day on which a notice referred to in subsection (4) is served is—

25

  - (a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or
  - 30 (b) where the notice is delivered to the applicant personally, the day when it is so delivered.



*Industrial Arbitration (Employment Agencies) Amendment.*

145I. (1) A license authorises the holder thereof, in respect of the carrying on by him of the business of a private employment agent at the place specified in the license—

Classes of  
licenses.

- 5 (a) to demand and receive a fee, charge or remuneration from any person; or
- (b) to demand and receive a fee, charge or remuneration only from a person who employs labour,

10 whichever is specified in the license.

(2) A license conferring the authority referred to in subsection (1) (a) shall not be granted after 31st December, 1980.

15 (3) Subject to this Division, a license conferring the authority referred to in subsection (1) (a) that is in force on 31st December, 1980—

- (a) ceases after that day to confer that authority; and
- 20 (b) takes effect after that day as a license conferring the authority referred to in subsection (1) (b).

145J. A license shall be in the prescribed form and, without prejudice to the inclusion in the license of any other particulars, shall—

Form of  
license.

- 25 (a) specify the name of the person to whom the license is issued or, where the license is issued to more than one person, the names of the persons to whom the license is issued;
- (b) specify, in accordance with section 145I (1), the authority conferred by the license;

30

(c)



*Industrial Arbitration (Employment Agencies) Amendment.*

(c) specify the place of business in respect of which the license is granted; and

(d) specify the day of issue of the license.

5 145K. (1) A license has effect from and including the day specified in the license as the day of issue of the license. <sup>Duration of license.</sup>

10 (2) Subject to this Division, a license continues in force until it is cancelled under subsection (3) or under section 145L (3) (a) or 145M.

(3) If, before the expiration of the year commencing on the day on which a license takes effect, or the expiration of any year commencing on the anniversary of that day, the licensee fails—

15 (a) to lodge with the Under Secretary a statement in writing signed by him that contains the prescribed information, compiled as at a day not earlier than one month before the expiration of that year; or

20 (b) to pay the Under Secretary the prescribed fee for continuation of the license,

the Under Secretary may, at the expiration of the year so commencing during which the failure occurs, cancel the license.

25 (4) The provisions of section 145M (10) and (11) apply to a person whose license is cancelled under this section in the same way as they apply to a person whose license is cancelled under section 145M.

145L.



*Industrial Arbitration (Employment Agencies) Amendment.*

145L. (1) Where—

Notice of  
changed  
particulars.

- (a) a licensee ceases to carry on the business of a private employment agent;
- 5 (b) the business of a licensee is carried on at a place other than the place specified in the license;
- (c) the name under which a licensee carries on business is changed;
- 10 (d) the name of a corporation that is a licensee is changed;
- (e) a license is held by a corporation and the directors of the corporation are changed;
- 15 (f) the nomination of a place of business under section 145E (3) (b) ceases to have effect or a licensee is, or is likely to be, absent for a period exceeding one month from the place of business so nominated as the place of business at which he is the person in charge;
- 20 (g) an appointment under section 145E (4) in respect of a place of business of a licensee ceases to have effect or the appointee is, or is likely to be, absent from that place of business for a period exceeding one month;
- 25 or
- (h) any other prescribed event relating to a license or licensee occurs,

the



*Industrial Arbitration (Employment Agencies) Amendment.*

the licensee shall, within the prescribed time and in the prescribed manner, notify the Under Secretary of the occurrence of that event and of such particulars as may be prescribed in respect of the event and shall, when giving notice of an event specified in paragraph (a), (b), (c) or (d) surrender the license to the Under Secretary, for cancellation in the case of the event specified in paragraph (a) or for amendment in the case of an event specified in paragraph (b), (c) or (d).

(2) A regulation prescribing other events in respect of which notice shall be given to the Under Secretary may require the licensee to surrender his license for cancellation or amendment when giving notice of the event.

(3) The Under Secretary—

(a) shall cancel a license surrendered for cancellation; or

(b) may amend a license surrendered for amendment,

pursuant to subsection (1) or a regulation made pursuant to subsection (2).

(4) A licensee who fails to comply with the provisions of subsection (1) is guilty of an offence and liable to a penalty not exceeding \$200.

145M. (1) The Under Secretary may, for such reason as he thinks fit, cancel a license. Cancellation of license.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) Without limiting the generality of subsection (1), the Under Secretary may cancel a license if he is satisfied—

- 5 (a) that a licensee or a director of a corporation that is a licensee made a statement in or in connection with—
- (i) the application for the grant of the license; or
- 10 (ii) a statement referred to in section 145K (3) (a),
- that was false or misleading in a material particular;
- (b) that a licensee is not a fit person to continue to be the holder of the license;
- 15 (c) that a director of a corporation that is a licensee would not, if he were the holder of a license, be a fit person to continue to be the holder of the license;
- (d) that a corporation, being a licensee, is not
- 20 a fit person to continue to be the holder of the license;
- (e) that a person appointed by a licensee to be the person in charge at the place of business in respect of which the license is issued
- 25 would not, if he were the holder of a license, be or, as the case may be, continue to be, a fit person to be the holder of a license;
- (f) that a licensee has failed to comply with the provisions of section 145L (1);

(g)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (g) that the business of a licensee as a private employment agent has not been or is not being properly conducted;
- 5 (h) that the premises in which the business of a licensee is being carried on are not, or have ceased to be, reasonably suitable for carrying on the business of a private employment agent; or
- 10 (i) that a licensee has been convicted of an offence against this Division.

(3) Where he proposes to cancel a license the Under Secretary shall, except where—

- 15 (a) a request has been made by the licensee or all of the joint licensees for the cancellation; or
- (b) the Under Secretary is satisfied—
  - (i) that the licensee, not being a corporation, has died;
  - 20 (ii) that a partnership being carried on by joint licensees has been dissolved; or
  - (iii) that the licensee, being a corporation, has been wound up,

25 give the licensee a notice in writing setting forth the reasons for the proposed cancellation and requiring the licensee, within such period as is specified in the notice, to show cause why the license should not be cancelled.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (4) Where upon the expiration of the  
period specified in any notice given pursuant to  
subsection (3), or of such further period as the  
Under Secretary may allow, the Under Secretary  
cancels a license he shall cause a notice of cancella-  
tion to be served on the licensee by sending the  
notice by certified mail addressed to the licensee at  
the place of business in respect of which the license  
was granted, or by causing it to be delivered to the  
10 licensee personally.

(5) In the case of a license issued to  
joint licensees it is a sufficient compliance with  
subsection (4) if the notice of cancellation is  
served on any one of the joint licensees.

15 (6) A notice of cancellation shall state  
the reasons for the cancellation of the license.

20 (7) Subject to subsection (8), the  
cancellation of a license takes effect upon the  
expiration of the day that is twenty-one days after  
the day on which the notice of cancellation is  
served.

(8) Where a licensee appeals under  
section 145N against the cancellation of the license,  
the cancellation shall have effect—

25 (a) only if the industrial magistrate hearing the  
appeal confirms the cancellation or if the  
appeal is withdrawn; and

30 (b) on the day on which the industrial magistrate  
confirms the cancellation, or such later day  
as the industrial magistrate orders or, if the  
appeal is withdrawn, on the day on which  
it is withdrawn.

(9)



*Industrial Arbitration (Employment Agencies) Amendment.*

(9) The day on which a notice of cancellation is served is—

(a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or

(b) where the notice is delivered to the licensee personally, the day when it is so delivered.

(10) A person who was the holder of a license and who, upon the cancellation of the license taking effect, fails to forthwith deliver the license to the Under Secretary is guilty of an offence and liable to a penalty not exceeding \$200.

(11) A person who was a joint licensee is not guilty of an offence referred to in subsection (10) if another of the persons who were joint licensees delivers the license to the Under Secretary.

145N. (1) In subsection (5), “day of service” Appeals. means—

(a) in the case of an appeal against a refusal to grant a license, the day of service of the notice of refusal; and

(b) in the case of an appeal against a cancellation of a license, the day of service of the notice of cancellation.

(2) An applicant for the grant of a license may appeal to an industrial magistrate against the refusal of the Under Secretary to grant the license.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A licensee may appeal to an industrial magistrate against the cancellation by the Under Secretary of the license.

5

(4) Where an application for the grant of a license made by more than one person is refused or a license held by more than one person is cancelled, an appeal under this section against the refusal or cancellation may be made by any of the applicants or licensees, as the case may be, on behalf of all of the applicants or licensees, or by all of the applicants or licensees jointly, but not otherwise.

10

15

(5) Notice of an appeal under this section, specifying the grounds of appeal, shall be lodged with the registrar not later than twenty-one days after the day of service.

20

(6) The registrar shall give notice of the time and place of the hearing of an appeal under this section to the Under Secretary and to the person or persons appealing and shall state in the notice to the Under Secretary the grounds of the appeal.

25

30

(7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (6) or the failure to give any such notice if the industrial magistrate is satisfied that any person appealing and the Under Secretary had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by failure to give any such notice.

(8)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (8) Where relevant, a report furnished pursuant to section 145G (1) to the Under Secretary by the Commissioner of Police and certified by the Under Secretary to have been so furnished shall be received in proceedings before an industrial magistrate under this section as evidence of the contents of the report.

10 (9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm or disallow the refusal or cancellation appealed against.

15 (10) Where a license is refused or cancelled on the ground that a person named in the application, or the licensee, as the case may be, is not a fit person to be, or continue to be, the holder of a license, the industrial magistrate hearing and determining the appeal shall determine whether or not that person or licensee is a fit person to be, or continue to be, the holder of a license.

20 (11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person or persons appealing and on the Under Secretary, who shall take such steps as may be  
25 necessary to give effect to the decision.

30 (12) Subject to this section, where regulations are made relating to the institution, hearing and determination of an appeal under this section, any such appeal shall be instituted, heard and determined in accordance with those regulations.



*Industrial Arbitration (Employment Agencies) Amendment.*

145o. (1) The Under Secretary shall keep a register, in such form as he determines, of licenses issued under this Division and shall record therein in respect of each license—

- 5 (a) the matters which under section 145J are required to be specified in the license;
- (b) particulars of any fees paid, or due but not paid, in respect of the license under section 145K (3) (b);
- 10 (c) particulars of any amendment of the license made pursuant to section 145L (3) (b);
- (d) particulars of any cancellation of the license under section 145K (3), 145L (3) (a) or 145M; and
- 15 (e) such other matters as may be prescribed.

(2) The Under Secretary shall keep a register, in such form as he determines, containing—

- 20 (a) particulars of the name of each licensee who has been specified in an instrument referred to in section 145E (3) (b) as the person in charge at the place of business nominated in that instrument and particulars of the name of each person who has been appointed in accordance with section 145E (4);
- 25 (b) particulars of each place of business so nominated and each place of business to which such an appointment relates;

(c)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (c) particulars of the date on which a nomination under section 145E (3) (b) and an appointment under section 145E (4) takes effect or ceases to have effect, as the case may require;

10 (d) if he causes a notice of cancellation to be served on a licensee on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license, a note to that effect; and

15 (e) particulars of the result of any appeal against the cancellation of a license on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license.

20 (3) The Under Secretary may make such alterations in the registers referred to in subsections (1) and (2) as are necessary to ensure that the matters recorded therein in respect of any license or person are accurate.

25 (4) A certificate purporting to be signed by the Under Secretary certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1) or (2) did or did not appear in the registers referred to in those subsections shall, in all courts and upon all occasions, without proof of the signature of the Under Secretary and without the production of any record or document upon which the certificate is founded, be evidence of the particulars certified in and by the certificate.



*Industrial Arbitration (Employment Agencies) Amendment.*

145P. Anything authorised or required by or under this Division to be done by, lodged with or paid to the Under Secretary may be done by, lodged with or paid to any officer of the Department of Labour and Industry who is authorised generally or specially in that behalf in writing by the Under Secretary, and anything purporting to have been done by, lodged with or paid to an officer so authorised shall be deemed to have been done by, lodged with or paid to the Under Secretary.

145Q. (1) The holder of a license referred to in section 145I (1) (a) who, in respect of the carrying on by him of any of the functions of a private employment agent, directly or indirectly demands or receives from a person seeking work or seeking to be employed, pursuant to a contract of employment or otherwise—

- (a) an amount by way of a fee, charge or remuneration that is greater than the prescribed amount; or
- (b) a reward or consideration in addition to or instead of any amount that he may lawfully so demand or receive,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) The prescribed amount referred to in subsection (1) may be—

- (a) a monetary amount; or
- (b) a percentage of the salary, wage or remuneration payable to a person in respect of that person's employment during such period as is prescribed.

(3)



*Industrial Arbitration (Employment Agencies) Amendment.*

(3) A regulation may be made requiring a licensee who has arranged for the employment of a person, at the option of the employee—

- 5 (a) to refund any amount paid to the licensee in consideration of that arrangement; or
- (b) to find alternative employment for that person,

10 if the employment is terminated, in the circumstances specified in the regulation, before the expiration of two weeks or, where the employment was arranged for a period of less than two weeks, before the expiration of that period.

15 (4) A regulation made for the purposes of subsection (2) or (3) may be made so as to apply differently according to such factors as are specified in the regulation.

145R. (1) A licensee who—

Offences  
by  
licensees.

- 20 (a) fails to keep a register or registers, in such form as is approved by the Under Secretary, containing particulars of the name and address of every person who applies to him for employment and of every person who applies to him for labour and the nature of the employment or labour required or to
- 25 retain a register so kept for a period of twelve months after the making of the last entry therein;
- 30 (b) fails to keep a register, in such form as is approved by the Under Secretary, containing particulars of all engagements made by

or



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- 5 or through the licensee, of any fee, charge or remuneration received in respect of any such engagement and of the name of the person from whom any such fee, charge or remuneration was received or to retain any such register for a period of twelve months after the making of the last entry therein;
- 10 (c) fails to retain the originals of all letters received by the licensee in connection with his business as a private employment agent for the period of twelve months after their receipt;
- 15 (d) fails to permit the Under Secretary or an officer authorised by him, at any reasonable hour, to inspect the registers referred to in paragraphs (a) and (b) and the letters referred to in paragraph (c);
- 20 (e) fails to inform a person who applies to him for employment of the prescribed amount, if any, that may be payable by that person;
- 25 (f) where the Under Secretary, by notice in writing served in the manner specified in section 145M (4), requires that licensee to furnish him, within such time as is, or at such times as are, specified in the notice, with information in writing relating to all or any of the particulars contained in the register referred to in paragraph (b), fails to furnish that information within the time
- 30 or at any of the times so specified;
- 35 (g) except when the license issued to him has been surrendered to the Under Secretary in accordance with this Division, fails to display the license in a conspicuous position in the premises to which it relates;
- (h)



*Industrial Arbitration (Employment Agencies) Amendment.*

(h) makes any false entry in a register referred to in paragraph (a) or (b);

(i) advertises or causes to be advertised, or publishes or causes to be published, any matter that, by its tenor, suggests, implies or infers that the matter is not advertised or published by or on behalf of a private employment agent; or

(j) advertises or causes to be advertised a position as being available when no such position exists,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) Where a corporation commits an offence under this Part and the offence is proved to have been committed with the consent or approval of a director, secretary or manager of the corporation, that director, secretary or manager is also guilty of that offence and liable to the penalty provided in respect of that offence.

(p) by inserting before section 146 the following heading :—

Part XIV.  
Division 3:  
Heading.

*DIVISION 3.—General provisions for the purposes of Part XIV.*

(q) (i) by inserting in section 146 after the word “license” where firstly occurring the words “under this Part”;

Sec. 146.  
(Where  
license  
cancelled  
holder not  
qualified  
to obtain  
license.)

(ii) by inserting in section 146 after the word “hold” the word “such”;



*Industrial Arbitration (Employment Agencies) Amendment.*

- (r) by inserting in section 147 after the word "licensee" the words "under this Part"; Sec. 147.  
(Production of license.)
- 5 (s) by omitting from section 148 the words " , and on the payment of ten cents, the Minister may, at the request" and by inserting instead the following words :— Sec. 148.  
(Loss or destruction of license.)
- under this Part—
- (a) where the license is a license issued under Division 2, the Minister; and
- 10 (b) where the license is a license issued under Division 2A, the Under Secretary,
- may, at the request;
- (t) by omitting the heading before section 149; Part XIV,  
Division 3:  
Heading.
- 15 (u) by omitting from section 149 the words "this Part of this Act" and by inserting instead the matter "Division 2"; Sec. 149.  
(Offences.)
- (v) by omitting from section 150 the words "of this Act" wherever occurring; Sec. 150.  
(Penalty for contravention of Act.)
- 20 (w) (i) by omitting from section 151 the words "of this Act"; Sec. 151.  
(Who may take proceedings.)
- (ii) by omitting from section 151 the words "by any" and by inserting instead the words "only by a";

(x)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (x) by inserting in section 152 after the word "pre-  
scribed" the words "for the purposes of Division 2";
- (y) by omitting from section 153 the words "of this Act"  
wherever occurring.

Sec. 152.  
(Copy of  
entries in  
registers  
to be  
evidence.)

Sec. 153.  
(Regula-  
tions.)

5 5. (1) A license, not being a license to open or carry on  
a theatrical agency, referred to in section 137 (1) (a) of the  
Principal Act and in force immediately before the commence-  
ment of section 4 shall, upon that commencement, be deemed  
to be a license referred to in section 145I (1) (a) of that Act,  
10 as amended by section 4, that—

Transitional  
and saving  
provisions.

- (a) is issued to the person named in the license;
- (b) is issued in respect of the place of business specified  
in the license or, where the business is being con-  
ducted at some other place and the Minister or the  
15 Under Secretary of the Department of Labour and  
Industry has been notified thereof in writing, the  
place of business so notified; and
- (c) subject to subsection (4), continues in force until  
it is cancelled under section 145K (3), 145L (3)  
20 (a) or 145M of that Act, as so amended.

(2) Where, immediately before the commencement of  
section 4, an application made under the provisions of section  
138 of the Principal Act has not been determined, that  
application shall be determined as if this Act had not been  
25 enacted.

(3) Subsection (1) applies to and in respect of a  
license granted pursuant to an application referred to in  
subsection (2) in the same way as it applies to a license in  
force immediately before the commencement of section 4.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(4) Where the holder of a license referred to in subsection (1) or (3) surrenders the license held by him that, by subsection (1), is deemed to be a license referred to in section 145i (1) (a) of the Principal Act, as amended by section 4, the Under Secretary of the Department of Labour and Industry may, if that license is still in force—

10 (a) unless that person makes the request referred to in paragraph (b), without fee issue to that person a license referred to in section 145i (1) (a) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license; or

15 (b) where that person so requests, without fee issue to that person a license referred to in section 145i (1) (b) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the  
20 license,

and upon the issue of any such license the provisions of subsection (1) cease to have effect in relation to the surrendered license.

(5) Where a license, not being a license to open or  
25 carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act, as amended by section 4, specifies the names of more than one person those persons shall, upon the operation of subsection (1), be deemed to be joint licensees under Division 2A of Part XIV of the Principal Act,  
30 as amended by section 4.

(6)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(6) Where before the commencement of section 4 the Under Secretary of the Department of Labour and Industry was notified in writing of the name of a person who is to have, or has, the management of the business of a private employment agent carried on at a specified place the licensee carrying on that business shall, subject to section 145E (7) and (8) of the Principal Act, as amended by section 4, be deemed—

- 10 (a) where the person to whom the notification relates is not the licensee or one of a number of joint licensees—to have appointed that person under section 145E (4) of that Act, as so amended, to be the person in charge at that place of business; or
- 15 (b) where the person to whom the notification relates is the licensee or one of a number of joint licensees—to have nominated that place of business under section 145E (3) of that Act, as so amended, as the place of business at which he is the person in charge.

(7) A reference in subsection (6) to a notification is, where there was more than one such notification, a reference to the later or latest such notification.

(8) A person who, immediately before the commencement of section 4, is the holder of a license, not being a license to open or carry on a theatrical agency, issued under the Principal Act—

- 30 (a) who fails to retain for the period of six months following that commencement the originals of all letters received by him in connection with his business as a private employment agent during the period of six months that immediately preceded that commencement;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

5 (b) who has in his possession or under his control any registers referred to in section 139 of the Principal Act and who fails, after that commencement, to retain those registers for the period of twelve months following that commencement; or

10 (c) who fails to permit the Under Secretary of the Department of Labour and Industry or an officer authorised by him to inspect the letters referred to in paragraph (a) and the registers referred to in paragraph (b),

is guilty of an offence and liable to a penalty not exceeding \$500.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975  
[40c]











## INDUSTRIAL ARBITRATION (EMPLOYMENT AGENCIES) AMENDMENT BILL, 1975

---

### EXPLANATORY NOTE

THE objects of this Bill are to amend the provisions of the Industrial Arbitration Act, 1940, relating to the licensing of private employment agents, the fees that may be charged by private employment agents and the persons from whom those fees may be demanded.

The Bill contains the following provisions:—

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a commencement provision.

Clause 3 provides that a reference in the proposed Act to the "Principal Act" is a reference to the Industrial Arbitration Act, 1940.

Clause 4 amends the Principal Act—

- (a) by inserting in section 2 a reference to a new Division 2A of Part XIV;
- (b) by inserting in section 5 a definition of "Under Secretary", being a reference to the Under Secretary of the Department of Labour and Industry (herein called "the Under Secretary");
- (c) in section 92 (6) as a consequence of the amendment specified in paragraph (b);
- (d) so that Division 2 of Part XIV does not have any application to private employment agents;
- (e) by inserting a new Division 2A of Part XIV relating to private employment agents in which—
  - (i) clause 145A is an interpretation provision;
  - (ii) clause 145B specifies what is the business of a private employment agent;
  - (iii) clause 145C provides for exemptions from the provisions of the Division;
  - (iv) clause 145D prohibits a person carrying on the business of a private employment agent from charging certain persons fees in respect of his services unless he holds a license that authorises him to charge those persons fees;
  - (v) clause 145E requires a licensee to be in charge at the place of business in respect of which his license is issued or to appoint some other person to be in charge at that place of business;
  - (vi) clause 145F provides that an application for a license shall be made to the Under Secretary;



- (vii) clause 145G makes provision for inquiries to be made as to whether a person named in an application for the grant of a license or appointed to be the person in charge at a place of business is or would be a fit person to be the holder of a license and for objections to be made to the issue of a license to an applicant;
- (viii) clause 145H provides for the grant or refusal of a license as a private employment agent;
- (ix) clause 145I specifies that a license may be issued authorising a private employment agent to charge employers or employees fees or authorising a private employment agent to charge only employers fees, but limits the period in which a license to charge both employers and employees fees may be granted to 31st December, 1980;
- (x) clause 145J specifies the particulars to be included in a license;
- (xi) clause 145K provides that a license continues in force until it is cancelled or ceases to have effect because of the failure of the licensee to comply with the continuation provisions;
- (xii) clause 145L requires the licensee to notify the Under Secretary when certain events that may affect the eligibility of a licensee to hold a license occur;
- (xiii) clause 145M permits the Under Secretary to cancel a license;
- (xiv) clause 145N allows an appeal to an industrial magistrate by a person to whom the Under Secretary has refused to grant a license or by a person whose license has been cancelled by the Under Secretary;
- (xv) clause 145O requires the Under Secretary to keep a register containing particulars of licenses issued to private employment agents and a register containing the name of each person appointed as the person in charge at a place of business of a private employment agent and provides that a certificate issued by the Under Secretary in respect of matters appearing in the registers is evidence of the matters specified in the certificate;
- (xvi) clause 145P permits any thing that may be done by the Under Secretary to be done by an officer of the Department of Labour and Industry who is authorised to do that thing;
- (xvii) clause 145Q prohibits a private employment agent from charging a person for whom he finds employment more than the prescribed amount or a consideration in addition to or instead of the amount he may lawfully charge;
- (xviii) clause 145R provides that a licensee who fails to keep certain registers and documents, fails to allow the Under Secretary or an authorised person to inspect those registers and documents, fails to inform in advance a person for whom he attempts to find employment of the prescribed amount that may be payable



in respect of his services, makes false entries in registers or publishes false or misleading advertisements or does or fails to do certain other things, is guilty of an offence and provides that, where the licensee is a body corporate and certain officers of the body corporate knew of or consented to the commission of the offence, those officers are also guilty of the offence; and

- (f) by making certain consequential amendments to Division 3 of Part XIV.

Clause 5 contains transitional and saving provisions that deal with licenses in force on the day on which clause 4 commences, applications that have not been determined on that day, licenses subsequently issued pursuant to applications pending on that day, the surrender of licenses issued before that day and the issue in their place of licenses under the new Division 2A of Part XIV of the Principal Act, licenses issued to more than one person, persons who before the day on which clause 4 commences are persons having the management of a private employment agency and the retention by the holder of a license in force immediately before clause 4 commences, of the registers and documents that he was required by section 139 of the Principal Act to keep.

---







**PROOF**

No. , 1975.

---

---

## A BILL

To make further provisions with respect to the licensing of private employment agents and the fees payable to private employment agents by employees and employers; for these and other purposes to amend the Industrial Arbitration Act, 1940.

[SIR ERIC WILLIS—20 November, 1975.]

---

---

**BE**



*Industrial Arbitration (Employment Agencies) Amendment.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Industrial Arbitration (Employment Agencies) Amendment Act, 1975".

Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

Commencement.

10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 3. The Industrial Arbitration Act, 1940, is, in this Act, referred to as the Principal Act.

Principal Act.

4. The Principal Act is amended—

Amendment of Act No. 2, 1940.

(a) by omitting from section 2 the matter relating to Divisions 2 and 3 of Part XIV and by inserting instead the following matter :—

Sec. 2. (Division into Parts.)

20 DIVISION 2.—*Theatrical agencies and employers—ss. 136–145.*

DIVISION 2A.—*Private employment agents—ss. 145A–145R.*

25 DIVISION 3.—*General provisions for the purposes of Part XIV—ss. 146–153.*

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) by inserting at the end of section 5 (1) the following definition :— Sec. 5.  
(Interpretation.)

5                   “Under Secretary” means the person for the time  
                      being holding the office of, or acting as,  
                      Under Secretary of the Department of  
                      Labour and Industry.

- (c) (i) by omitting from section 92 (6) the words Sec. 92.  
“of the Department of Labour and Industry”; (Recovery  
of wages.)

10                   (ii) by omitting from section 92 (6) the word  
                      “said”;

- (d) by omitting the heading before section 136 and by Part XIV,  
Division 2:  
Heading.  
inserting instead the following heading :—

*DIVISION 2.—Theatrical agencies and employers.*

- 15                   (e) by omitting from section 136 the words “Part of Sec. 136.  
this Act” and by inserting instead the words (Defini-  
tions.)  
                      “Division and in Division 3,”;

- 20                   (f) (i) by omitting from section 137 (1) (a) the Sec. 137.  
words “open or carry on for profit any agency (Persons  
for procuring or assisting to procure carrying  
employment or labour, or any business having on  
as one of its purposes the bringing together theatrical  
of intending employers and persons seeking agencies  
employment, or”; to be  
licensed  
and  
theatrical  
employers  
to hold  
permits.)

25                   (ii) by omitting from section 137 (1) the words  
                      “Part of this Act” wherever occurring and by  
                      inserting instead the word “Division”;

(iii)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (iii) by omitting from section 137 (2) the words "Every such license" and by inserting instead the words "A license referred to in subsection (1) (a)";
- 5 (iv) by omitting from section 137 (2) the words "agency or business or";
- (g) (i) by omitting from section 138 (1) the words Sec. 138. "license or for the issue of a" and by inserting (Application for license.) instead the words "theatrical agent's license or for the issue of a theatrical employer's";
- 10 (ii) by omitting from section 138 (2) the words "Part of this Act" and by inserting instead the word "Division";
- (h) (i) by omitting from section 139 the words Sec. 139. "Part of this Act" and by inserting instead the word (Licensee to keep registers.) "Division";
- 15 (ii) by omitting from section 139 (a) the words ", and pays a fee in respect of his application," and by inserting instead the words "as a theatrical performer";
- 20 (iii) by omitting from section 139 (b) the words "labour, and pays a fee in respect of his application," and by inserting instead the words "a theatrical performer";
- 25 (i) (i) by inserting in section 140 after the word Sec. 140. "licensees" the words "under this Division"; (Scale of fees.)
- (ii) by omitting from section 140 the words "or businesses" wherever occurring;
- (j)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (j) (i) by inserting in section 141 (1) after the words "A licensee" the words "under this Division"; (No fees to be received except those prescribed.)
- (ii) by omitting from section 141 (1) (a) the words "registration or engagement of any person" and by inserting instead the words "engagement of a theatrical performer";
- (iii) by inserting in section 141 (1) (c) before the word "employer" where firstly and secondly occurring the word "theatrical";
- (iv) by omitting from section 141 (1) (c) the word "employee" and by inserting instead the words "theatrical performer";
- (v) by inserting in section 141 (1) (c) before the word "employer" where thirdly occurring the word "such";
- (vi) by omitting from section 141 (1) (c) the words "a licensee" and by inserting instead the words "any such licensee";
- (vii) by inserting in section 141 (1) (d) after the word "employment" the words "as theatrical performers";
- (viii) by inserting in section 141 (4) after the word "any" where firstly occurring the word "such";
- (ix) by inserting in section 141 (4) after the word "employment" the words "as theatrical performers";

(k) by omitting section 142;

Sec. 142.  
(Registration fee to be repaid if employment or labour not found.)

(1)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (l) (i) by inserting in section 143 after the words "A licensee" wherever occurring the words "under this Division"; Sec. 143.  
(False statements or entries by licensees.)
- 5 (ii) by omitting from section 143 the words "registers for employment" and by inserting instead the words "applies to him for employment as a theatrical performer";
- 10 (iii) by omitting from section 143 the words "as in this Act provided" and by inserting instead the words "pursuant to section 139";
- (m) by inserting in section 144 after the word "licensee" the words "under this Division"; Sec. 144.  
(Conviction to be endorsed on license.)
- (n) by omitting from section 145 the words "Part of this Act" and by inserting instead the word "Division"; Sec. 145.  
(Cancellation of license or permit.)
- 15 (o) by inserting after section 145 the following Part XIV,  
Division 2A.  
Division : —

*DIVISION 2A.—Private employment agents.*

145A. In this Division, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-  
tation:  
Division 2A.

20

"license" means a license in force under this Division;

"licensee" includes a person who holds a license jointly with another person or other persons;

25 "regulation" means a regulation made for the purposes of this Division or made pursuant to section 153.

145B.



*Industrial Arbitration (Employment Agencies) Amendment.*

145B. (1) Subject to this section and section 145C, a person carries on the business of a private employment agent if he acts as an agent— Business of private employment agent.

5 (a) for procuring or assisting to procure a person to carry out work for a person seeking to have work carried out; or

(b) for procuring or assisting to procure employment for a person seeking to be employed

10 whether that employment or work is to be undertaken or carried out pursuant to a contract of employment, or otherwise.

15 (2) A person who prints or publishes in a newspaper within the meaning of the Printing and Newspapers Act, 1973, or in a document within the meaning of that Act, an advertisement placed by or on behalf of a person seeking to have work carried out or by or on behalf of a person seeking to be employed does not, by reason only of the printing and publishing of that advertisement, carry on the business of a private employment agent.

25 (3) A person who carries out any of the functions referred to in subsection (1) in the course of his employment by some other person does not, by reason only of his so carrying out those functions, carry on the business of a private employment agent.

30 145C. (1) The Governor may, by regulation, exempt any person or any class of persons from the operation of all or any of the provisions of this Division. Exemptions.

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

5 (3) Where an exemption under subsection (1) is given subject to conditions the exemption does not have effect during any period when the conditions are not being complied with.

10 (4) It is a sufficient defence to a prosecution arising under this Division if the defendant proves that at the relevant time he was a person, or a member of a class of persons, exempted from the operation of this Division by subsection (1) and, where that exemption was  
15 given subject to any condition, that he was, at that time, complying with that condition.

145D. (1) Subject to this Division, where a person carries on the business of a private employment agent—  
Private employment agents to be licensed.

20 (a) he shall not demand or receive any fee, charge or remuneration in respect of that business except in accordance with the authority of a license held by him; and

25 (b) he shall not, where he is the holder of a license, carry on that business at a place other than the place to which that or another license held by him relates.

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) A person who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

5 145E. (1) A person shall not act as the person in charge at the place of business to which a license relates unless— Persons to be in charge at each place of business.

10 (a) not being a corporation, he is the licensee, or one of a number of joint licensees, and the place of business is the place of business nominated under subsection (3) in respect of that licensee;

(b) he is a person appointed under subsection (4) in respect of that place of business; or

15 (c) he is not a person referred to in paragraph (a) or (b) and is so acting—

(i) for a period not exceeding one month in the place of an absent person so referred to; or

20 (ii) for a period not exceeding seven days pending an appointment under subsection (4).

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) A licensee or, where there are joint licensees, a joint licensee, shall not, in respect of a place of business to which his license relates, permit a contravention of subsection (1).

5 (3) Where a person is a licensee, or one of a number of joint licensees, in respect of more than one place of business, he shall not—

(a) act as the person in charge at more than one of those places of business; or

10 (b) act as the person in charge at any of those places of business unless he has, by instrument in writing signed by him or, where he is a joint licensee, by all of the joint licensees, and lodged with the Under Secretary, nominated that place as the place of business at which he will be the person in charge.

15 (4) A licensee may appoint a person as the person in charge at the place of business to which his license relates by lodging with the Under Secretary a notice in the prescribed form signed by the licensee or, where there are joint licensees, by all of the joint licensees, that contains the prescribed particulars.

20 (5) An appointment under subsection (4) takes effect on the day on which the prescribed form relating to the appointment is lodged with the Under Secretary or, where a later day is specified in the form, on that later day.

(6)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (6) A licensee shall not appoint a person as the person in charge at the place of business to which his license relates if the licensee knows, or ought reasonably to know, that within the last preceding period of twelve months—

(a) an application by that person for a license has been refused; or

(b) a license held by that person has been cancelled,

10 unless an industrial magistrate, upon an appeal under this Division against the refusal or cancellation, has found that person to be a fit person to hold, or continue to hold, a license.

15 (7) Subject to subsection (8), a nomination referred to in subsection (3) (b) or an appointment under subsection (4) ceases to have effect on the day on which a notice in or to the effect of the prescribed form, signed by or on behalf of the licensee of that place of business, is  
20 lodged with the Under Secretary.

(8) Where a notice referred to in subsection (7) specifies a day, being a day that is after the day on which the notice is lodged, as the day on which the nomination or appointment to which it relates ceases to have effect, that nomination or  
25 appointment, as the case may be, ceases to have effect on the day specified in the notice.

(9) A person who fails to comply with any of the provisions of this section is guilty of an  
30 offence and liable to a penalty not exceeding \$500.



*Industrial Arbitration (Employment Agencies) Amendment.*

145F. (1) An application for the grant of a license shall— Application  
for license  
as private  
employment  
agent.

- (a) be made in the prescribed form;
- (b) contain the prescribed particulars;
- 5 (c) specify the class of license applied for;

10 (d) be accompanied by a page of a newspaper circulating generally throughout the State, being a page in which was published, at least seven, but not more than fourteen, days before the making of the application, a notice in the prescribed form with respect to the application;

(e) be accompanied by the prescribed fee; and

(f) be lodged with the Under Secretary.

15 (2) Where a business for which a license is required is to be carried on at more than one place of business, a separate application for the grant of a license in respect of each such place shall be lodged with the Under Secretary.

20 (3) A regulation made for the purposes of subsection (1) (a) or (b) may be made so as to apply differently according to such factors as may be specified in the regulation.

25 145G. (1) The Under Secretary may request the Commissioner of Police to report to him whether or not— Inquiries  
and  
objections.

(a) an applicant for a license;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) a proposed partner of an applicant for a license in the business in respect of which the license is applied for;
  - (c) a director of a corporation that is an applicant for a license;
  - (d) a director of a corporation that is a proposed partner of an applicant for a license in the business in respect of which the license is applied for; or
  - (e) a person in respect of whom notice of an appointment is lodged under section 145E (4),
- is, or if he were the applicant for a license would be, a fit person to be the holder of a license and on receipt of any such request the Commissioner of Police shall cause to be made such inquiries as he deems necessary in order to comply with the request and shall furnish a report of the result of those inquiries to the Under Secretary.
- (2) A person may, within twenty-one days after the publication of a notice referred to in section 145F (1) (d), lodge with the Under Secretary a notice of objection in respect of the application to which the notice relates.
- (3) A notice of objection referred to in subsection (2) shall be a statutory declaration in or to the effect of the prescribed form, shall contain the prescribed particulars and shall be lodged in the prescribed manner.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (4) The Under Secretary may, by  
instrument in writing served on the applicant for a  
license or on a licensee who makes an appointment  
under section 145E (4), require that applicant or  
licensee or, where there is more than one, any one  
or more of them, to furnish within the period  
specified in the instrument such further information  
and documents as he may reasonably require in  
10 connection with the application or appointment and  
may specify in the instrument.

15 (5) An instrument referred to in  
subsection (4) may be served by sending the  
instrument by certified mail addressed to the  
applicant or licensee at his address last known to  
the Under Secretary or by causing it to be delivered  
to the applicant or licensee personally.

20 145H. (1) An application for the grant of a license shall not be dealt with before the expiration of fourteen days after the application is lodged with the Under Secretary. Disposal of applications for licenses.

(2) Where the Under Secretary is satisfied with respect to an application for the grant of a license—

25 (a) that the notice referred to in section 145F (1) (d) relating to the application has been duly published;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (b) in the case of an application for the grant of a license referred to in section 145i (1) (a), that the Under Secretary is not prohibited by section 145i (2) from granting to the applicant a license so referred to;

(c) that—

(i) the applicant is;

10 (ii) where the applicant is a corporation—each director of the corporation is;

15 (iii) each proposed partner (if any) of the applicant in carrying on the business of a private employment agent is; and

(iv) where any such proposed partner is a corporation—each director of that corporation is,

a fit person to hold a license;

20 (d) that—

(i) where the applicant is not a corporation—the applicant is;

25 (ii) where the applicant is a corporation—each director of the applicant who is not himself a corporation is;

(iii)



*Industrial Arbitration (Employment Agencies) Amendment.*

(iii) where a proposed partner (if any) of the applicant in carrying on the business of a private employment agent is not a corporation—that proposed partner is; and

(iv) where any such proposed partner is a corporation—each director of that corporation who is not himself a corporation is,

of or above the age of eighteen years; and

(e) that the premises specified in the application as being the place of business in respect of which the application is made are reasonably suitable for carrying on the business of a private employment agent,

the Under Secretary shall grant and issue to the applicant a license of the class applied for in respect of that place of business

(3) In considering for the purposes of subsection (2) (c) whether a person is or would be a fit person to hold a license the Under Secretary—

(a) shall, in the case of a person other than a corporation, have regard to his character;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

(b) shall have regard to any report relating to that person furnished under section 145G (1) by the Commissioner of Police; and

5

(c) shall have regard to such other matters, including any matter specified in any notice of objection lodged under section 145G (2), as the Under Secretary considers relevant for the purpose of determining the fitness of the applicant to hold a license.

10

(4) Where, in relation to an application, the Under Secretary is not satisfied as to any one or more of the matters specified in subsection (2) he shall refuse the application and send to the applicant by certified mail addressed to the applicant at his address last known to the Under Secretary, or deliver to the applicant personally, a notice in writing of the refusal.

15

20

(5) In the case of an application made by more than one person it is a sufficient compliance with subsection (4) if the notice referred to in that subsection is served on any one of the applicants.

(6) A notice referred to in subsection (4) shall state the reasons for the refusal.

25

(7) The day on which a notice referred to in subsection (4) is served is—

(a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or

30

(b) where the notice is delivered to the applicant personally, the day when it is so delivered.



*Industrial Arbitration (Employment Agencies) Amendment.*

145I. (1) A license authorises the holder thereof, in respect of the carrying on by him of the business of a private employment agent at the place specified in the license—

Classes of  
licenses.

- 5 (a) to demand and receive a fee, charge or remuneration from any person; or
- (b) to demand and receive a fee, charge or remuneration only from a person who employs labour,
- 10 whichever is specified in the license.

(2) A license conferring the authority referred to in subsection (1) (a) shall not be granted after 31st December, 1980.

15 (3) Subject to this Division, a license conferring the authority referred to in subsection (1) (a) that is in force on 31st December, 1980—

- (a) ceases after that day to confer that authority; and
- 20 (b) takes effect after that day as a license conferring the authority referred to in subsection (1) (b).

145J. A license shall be in the prescribed form and, without prejudice to the inclusion in the license of other particulars, shall—

Form of  
license.

- 25 (a) specify the name of the person to whom the license is issued or, where the license is issued to more than one person, the names of the persons to whom the license is issued;
- (b) specify, in accordance with section 145I (1), the authority conferred by the license;
- 30

(c)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(c) specify the place of business in respect of which the license is granted; and

(d) specify the day of issue of the license.

5           145K. (1) A license has effect from and including the day specified in the license as the day of issue of the license. <sup>Duration of license.</sup>

10           (2) Subject to this Division, a license continues in force until it is cancelled under subsection (3) or under section 145L (3) (a) or 145M.

(3) If, before the expiration of the year commencing on the day on which a license takes effect, or the expiration of any year commencing on the anniversary of that day, the licensee fails—

15           (a) to lodge with the Under Secretary a statement in writing signed by him that contains the prescribed information, compiled as at a day not earlier than one month before the expiration of that year; or

20           (b) to pay the Under Secretary the prescribed fee for continuation of the license,

the Under Secretary may, at the expiration of the year so commencing during which the failure occurs, cancel the license.

25           (4) The provisions of section 145M (10) and (11) apply to a person whose license is cancelled under this section in the same way as they apply to a person whose license is cancelled under section 145M.

145L.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

145L. (1) Where—

Notice of  
changed  
particulars.

- (a) a licensee ceases to carry on the business of a private employment agent;
- 5 (b) the business of a licensee is carried on at a place other than the place specified in the license;
- (c) the name under which a licensee carries on business is changed;
- 10 (d) the name of a corporation that is a licensee is changed;
- (e) a license is held by a corporation and the directors of the corporation are changed;
- 15 (f) the nomination of a place of business under section 145E (3) (b) ceases to have effect or a licensee is, or is likely to be, absent for a period exceeding one month from the place of business so nominated as the place of business at which he is the person in charge;
- 20 (g) an appointment under section 145E (4) in respect of a place of business of a licensee ceases to have effect or the appointee is, or is likely to be, absent from that place of business for a period exceeding one month;
- 25 or
- (h) any other prescribed event relating to a license or licensee occurs,

the



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

the licensee shall, within the prescribed time and in the prescribed manner, notify the Under Secretary of the occurrence of that event and of such particulars as may be prescribed in respect of the event and shall, when giving notice of an event specified in paragraph (a), (b), (c) or (d) surrender the license to the Under Secretary, for cancellation in the case of the event specified in paragraph (a) or for amendment in the case of an event specified in paragraph (b), (c) or (d).

(2) A regulation prescribing other events in respect of which notice shall be given to the Under Secretary may require the licensee to surrender his license for cancellation or amendment when giving notice of the event.

(3) The Under Secretary—

(a) shall cancel a license surrendered for cancellation; or

(b) may amend a license surrendered for amendment,

pursuant to subsection (1) or a regulation made pursuant to subsection (2).

(4) A licensee who fails to comply with the provisions of subsection (1) is guilty of an offence and liable to a penalty not exceeding \$200.

145M. (1) The Under Secretary may, for such reason as he thinks fit, cancel a license. Cancellation of license.

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) Without limiting the generality of subsection (1), the Under Secretary may cancel a license if he is satisfied—

- 5 (a) that a licensee or a director of a corporation that is a licensee made a statement in or in connection with—
  - (i) the application for the grant of the license; or
  - 10 (ii) a statement referred to in section 145K (3) (a), that was false or misleading in a material particular;
- (b) that a licensee is not a fit person to continue to be the holder of the license;
- 15 (c) that a director of a corporation that is a licensee would not, if he were the holder of a license, be a fit person to continue to be the holder of the license;
- 20 (d) that a corporation, being a licensee, is not a fit person to continue to be the holder of the license;
- 25 (e) that a person appointed by a licensee to be the person in charge at the place of business in respect of which the license is issued would not, if he were the holder of a license, be or, as the case may be, continue to be, a fit person to be the holder of a license;
- (f) that a licensee has failed to comply with the provisions of section 145L (1);

(g)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (g) that the business of a licensee as a private employment agent has not been or is not being properly conducted;
- 5 (h) that the premises in which the business of a licensee is being carried on are not, or have ceased to be, reasonably suitable for carrying on the business of a private employment agent; or
- 10 (i) that a licensee has been convicted of an offence against this Division.

(3) Where he proposes to cancel a license the Under Secretary shall, except where—

- 15 (a) a request has been made by the licensee or all of the joint licensees for the cancellation; or
- (b) the Under Secretary is satisfied—
- (i) that the licensee, not being a corporation, has died;
- 20 (ii) that a partnership being carried on by joint licensees has been dissolved; or
- (iii) that the licensee, being a corporation, has been wound up,

25 give the licensee a notice in writing setting forth the reasons for the proposed cancellation and requiring the licensee, within such period as is specified in the notice, to show cause why the license should not be cancelled.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

5 (4) Where upon the expiration of the  
period specified in any notice given pursuant to  
subsection (3), or of such further period as the  
Under Secretary may allow, the Under Secretary  
cancels a license he shall cause a notice of cancella-  
tion to be served on the licensee by sending the  
notice by certified mail addressed to the licensee at  
the place of business in respect of which the license  
was granted, or by causing it to be delivered to the  
10 licensee personally.

(5) In the case of a license issued to  
joint licensees it is a sufficient compliance with  
subsection (4) if the notice of cancellation is  
served on any one of the joint licensees.

15 (6) A notice of cancellation shall state  
the reasons for the cancellation of the license.

(7) Subject to subsection (8), the  
cancellation of a license takes effect upon the  
expiration of the day that is twenty-one days after  
20 the day on which the notice of cancellation is  
served.

(8) Where a licensee appeals under  
section 145N against the cancellation of the license,  
the cancellation shall have effect—

25 (a) only if the industrial magistrate hearing the  
appeal confirms the cancellation or if the  
appeal is withdrawn; and

(b) on the day on which the industrial magistrate  
confirms the cancellation, or such later day  
30 as the industrial magistrate orders or, if the  
appeal is withdrawn, on the day on which  
it is withdrawn.

(9)



*Industrial Arbitration (Employment Agencies) Amendment.*

(9) The day on which a notice of cancellation is served is—

- (a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or
- (b) where the notice is delivered to the licensee personally, the day when it is so delivered.

(10) A person who was the holder of a license and who, upon the cancellation of the license taking effect, fails to forthwith deliver the license to the Under Secretary is guilty of an offence and liable to a penalty not exceeding \$200.

(11) A person who was a joint licensee is not guilty of an offence referred to in subsection (10) if another of the persons who were joint licensees delivers the license to the Under Secretary.

145N. (1) In subsection (5), "day of service" Appeals means—

- (a) in the case of an appeal against a refusal to grant a license, the day of service of the notice of refusal; and
- (b) in the case of an appeal against a cancellation of a license, the day of service of the notice of cancellation.

(2) An applicant for the grant of a license may appeal to an industrial magistrate against the refusal of the Under Secretary to grant the license.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A licensee may appeal to an industrial magistrate against the cancellation by the Under Secretary of the license.

5 (4) Where an application for the grant  
of a license made by more than one person is refused  
or a license held by more than one person is  
cancelled, an appeal under this section against the  
refusal or cancellation may be made by any of the  
10 applicants or licensees, as the case may be, on  
behalf of all of the applicants or licensees, or by all  
of the applicants or licensees jointly, but not  
otherwise.

15 (5) Notice of an appeal under this  
section, specifying the grounds of appeal, shall be  
lodged with the registrar not later than twenty-one  
days after the day of service.

20 (6) The registrar shall give notice of the  
time and place of the hearing of an appeal under  
this section to the Under Secretary and to the  
person or persons appealing and shall state in the  
notice to the Under Secretary the grounds of the  
appeal.

25 (7) The hearing of an appeal may  
proceed notwithstanding any omission or error in a  
notice under subsection (6) or the failure to give  
any such notice if the industrial magistrate is satis-  
fied that any person appealing and the Under  
Secretary had knowledge of the time and place of  
the hearing and were not prejudiced by any such  
30 omission or error or by failure to give any such  
notice.

(8)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (8) Where relevant, a report furnished pursuant to section 145G (1) to the Under Secretary by the Commissioner of Police and certified by the Under Secretary to have been so furnished shall be received in proceedings before an industrial magistrate under this section as evidence of the contents of the report.

10 (9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm or disallow the refusal or cancellation appealed against.

15 (10) Where a license is refused or cancelled on the ground that a person named in the application, or the licensee, as the case may be, is not a fit person to be, or continue to be, the holder of a license, the industrial magistrate hearing and determining the appeal shall determine whether or not that person or licensee is a fit person to be, or continue to be, the holder of a license.

20 (11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person or persons appealing and on the Under Secretary, who shall take such steps as may be  
25 necessary to give effect to the decision.

30 (12) Subject to this section, where regulations are made relating to the institution, hearing and determination of an appeal under this section, any such appeal shall be instituted, heard and determined in accordance with those regulations.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

145o. (1) The Under Secretary shall keep a register, in such form as he determines, of licenses issued under this Division and shall record therein in respect of each license—

Registers  
to be kept.

- 5 (a) the matters which under section 145J are required to be specified in the license;
- (b) particulars of any fees paid, or due but not paid, in respect of the license under section 145K (3) (b);
- 10 (c) particulars of any amendment of the license made pursuant to section 145L (3) (b);
- (d) particulars of any cancellation of the license under section 145K (3), 145L (3) (a) or 145M; and
- 15 (e) such other matters as may be prescribed.

(2) The Under Secretary shall keep a register, in such form as he determines, containing—

- 20 (a) particulars of the name of each licensee who has been specified in an instrument referred to in section 145E (3) (b) as the person in charge at the place of business nominated in that instrument and particulars of the name of each person who has been appointed in accordance with section 145E (4);
- 25 (b) particulars of each place of business so nominated and each place of business to which such an appointment relates;

(c)



*Industrial Arbitration (Employment Agencies) Amendment.*

- 5 (c) particulars of the date on which a nomination under section 145E (3) (b) and an appointment under section 145E (4) takes effect or ceases to have effect, as the case may require ;
- 10 (d) if he causes a notice of cancellation to be served on a licensee on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license, a note to that effect ; and
- 15 (e) particulars of the result of any appeal against the cancellation of a license on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license.
- 20 (3) The Under Secretary may make such alterations in the registers referred to in subsections (1) and (2) as are necessary to ensure that the matters recorded therein in respect of any license or person are accurate.
- 25 (4) A certificate purporting to be signed by the Under Secretary certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1) or (2) did or did not appear in the registers referred to in those subsections shall, in all courts and upon all occasions, without proof of the signature of the Under Secretary and without the production of any record or document upon which the certificate is founded, be evidence of the particulars certified in and by the certificate.
- 30



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

145P. Anything authorised or required by or under this Division to be done by, lodged with or paid to the Under Secretary may be done by, lodged with or paid to any officer of the Department of Labour and Industry who is authorised generally or specially in that behalf in writing by the Under Secretary, and anything purporting to have been done by, lodged with or paid to an officer so authorised shall be deemed to have been done by, lodged with or paid to the Under Secretary.

Performance  
of Under  
Secretary's  
functions.

145Q. (1) The holder of a license referred to in section 145I (1) (a) who, in respect of the carrying on by him of any of the functions of a private employment agent, directly or indirectly demands or receives from a person seeking work or seeking to be employed, pursuant to a contract of employment or otherwise—

Prescribed  
amount not  
to be  
exceeded.

(a) an amount by way of a fee, charge or remuneration that is greater than the prescribed amount; or

(b) a reward or consideration in addition to or instead of any amount that he may lawfully so demand or receive,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) The prescribed amount referred to in subsection (1) may be—

(a) a monetary amount; or

(b) a percentage of the salary, wage or remuneration payable to a person in respect of that person's employment during such period as is prescribed.

(3)



*Industrial Arbitration (Employment Agencies) Amendment.*

(3) A regulation may be made requiring a licensee who has arranged for the employment of a person, at the option of the employee—

5 (a) to refund any amount paid to the licensee in consideration of that arrangement; or

(b) to find alternative employment for that person,

10 if the employment is terminated, in the circumstances specified in the regulation, before the expiration of two weeks or, where the employment was arranged for a period of less than two weeks, before the expiration of that period.

15 (4) A regulation made for the purposes of subsection (2) or (3) may be made so as to apply differently according to such factors as are specified in the regulation.

145R. (1) A licensee who—

Offences  
by  
licensees.

20 (a) fails to keep a register or registers, in such form as is approved by the Under Secretary, containing particulars of the name and address of every person who applies to him for employment and of every person who applies to him for labour and the nature of the employment or labour required or to retain a register so kept for a period of  
25 twelve months after the making of the last entry therein;

30 (b) fails to keep a register, in such form as is approved by the Under Secretary, containing particulars of all engagements made by

or



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- 5 or through the licensee, of any fee, charge  
or remuneration received in respect of any  
such engagement and of the name of the  
person from whom any such fee, charge or  
remuneration was received or to retain any  
such register for a period of twelve months  
after the making of the last entry therein;
- 10 (c) fails to retain the originals of all letters  
received by the licensee in connection with  
his business as a private employment agent  
for the period of twelve months after their  
receipt;
- 15 (d) fails to permit the Under Secretary or an  
officer authorised by him, at any reasonable  
hour, to inspect the registers referred to in  
paragraphs (a) and (b) and the letters  
referred to in paragraph (c);
- 20 (e) fails to inform a person who applies to him  
for employment of the prescribed amount,  
if any, that may be payable by that person;
- 25 (f) where the Under Secretary, by notice in  
writing served in the manner specified in  
section 145M (4), requires that licensee to  
furnish him, within such time as is, or at  
such times as are, specified in the notice,  
with information in writing relating to all or  
any of the particulars contained in the  
register referred to in paragraph (b), fails  
30 to furnish that information within the time  
or at any of the times so specified;
- 35 (g) except when the license issued to him has  
been surrendered to the Under Secretary in  
accordance with this Division, fails to  
display the license in a conspicuous position  
in the premises to which it relates;
- (h)



*Industrial Arbitration (Employment Agencies) Amendment.*

(h) makes any false entry in a register referred to in paragraph (a) or (b);

5 (i) advertises or causes to be advertised, or publishes or causes to be published, any matter that, by its tenor, suggests, implies or infers that the matter is not advertised or published by or on behalf of a private employment agent; or

10 (j) advertises or causes to be advertised a position as being available when no such position exists,

is guilty of an offence and liable to a penalty not exceeding \$500.

15 (2) Where a corporation commits an offence under this Part and the offence is proved to have been committed with the consent or approval of a director, secretary or manager of the corporation, that director, secretary or manager is also guilty of that offence and liable to the penalty provided in respect of that offence.

20

(p) by inserting before section 146 the following heading :—

Part XIV,  
Division 3:  
Heading.

DIVISION 3.—*General provisions for the purposes of Part XIV.*

25 (q) (i) by inserting in section 146 after the word "license" where firstly occurring the words "under this Part";

Sec. 146.  
(Where license cancelled holder not qualified to obtain license.)

(ii) by inserting in section 146 after the word "hold" the word "such";



*Industrial Arbitration (Employment Agencies) Amendment.*

- (r) by inserting in section 147 after the word "licensee" the words "under this Part"; Sec. 147.  
(Production of license.)
- 5 (s) by omitting from section 148 the words " , and on the payment of ten cents, the Minister may, at the request" and by inserting instead the following words :— Sec. 148.  
(Loss or destruction of license.)
- under this Part—
- (a) where the license is a license issued under Division 2, the Minister; and
- 10 (b) where the license is a license issued under Division 2A, the Under Secretary,
- may, at the request;
- (t) by omitting the heading before section 149; Part XIV,  
Division 3:  
Heading.
- 15 (u) by omitting from section 149 the words "this Part of this Act" and by inserting instead the matter "Division 2"; Sec. 149.  
(Offences.)
- (v) by omitting from section 150 the words "of this Act" wherever occurring; Sec. 150.  
(Penalty for contravention of Act.)
- 20 (w) (i) by omitting from section 151 the words "of this Act"; Sec. 151.  
(Who may take proceedings.)
- (ii) by omitting from section 151 the words "by any" and by inserting instead the words "only by a";
- (x)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (x) by inserting in section 152 after the word "pre-  
scribed" the words "for the purposes of Division 2";
- (y) by omitting from section 153 the words "of this Act"  
wherever occurring.

Sec. 152.  
(Copy of  
entries in  
registers  
to be  
evidence.)  
2  
Sec. 153.  
(Regula-  
tions.)

5 5. (1) A license, not being a license to open or carry on  
a theatrical agency, referred to in section 137 (1) (a) of the  
Principal Act and in force immediately before the commence-  
ment of section 4 shall, upon that commencement, be deemed  
to be a license referred to in section 145I (1) (a) of that Act,  
10 as amended by section 4, that—

- (a) is issued to the person named in the license;
- (b) is issued in respect of the place of business specified  
in the license or, where the business is being con-  
ducted at some other place and the Minister or the  
15 Under Secretary of the Department of Labour and  
Industry has been notified thereof in writing, the  
place of business so notified; and
- (c) subject to subsection (4), continues in force until  
it is cancelled under section 145K (3), 145L (3)  
20 (a) or 145M of that Act, as so amended.

(2) Where, immediately before the commencement of  
section 4, an application made under the provisions of section  
138 of the Principal Act has not been determined, that  
application shall be determined as if this Act had not been  
25 enacted.

(3) Subsection (1) applies to and in respect of a  
license granted pursuant to an application referred to in  
subsection (2) in the same way as it applies to a license in  
force immediately before the commencement of section 4.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

(4) Where the holder of a license referred to in subsection (1) or (3) surrenders the license held by him that, by subsection (1), is deemed to be a license referred to in section 145i (1) (a) of the Principal Act, as amended by 5 section 4, the Under Secretary of the Department of Labour and Industry may, if that license is still in force—

10 (a) unless that person makes the request referred to in paragraph (b), without fee issue to that person a license referred to in section 145i (1) (a) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license; or

15 (b) where that person so requests, without fee issue to that person a license referred to in section 145i (1) (b) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the  
20 license,

and upon the issue of any such license the provisions of subsection (1) cease to have effect in relation to the surrendered license.

(5) Where a license, not being a license to open or 25 carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act, as amended by section 4, specifies the names of more than one person those persons shall, upon the operation of subsection (1), be deemed to be joint licensees under Division 2A of Part XIV of the Principal Act, 30 as amended by section 4.

(6)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(6) Where before the commencement of section 4 the Under Secretary of the Department of Labour and Industry was notified in writing of the name of a person who is to have, or has, the management of the business of a private employment agent carried on at a specified place the licensee carrying on that business shall, subject to section 145E (7) and (8) of the Principal Act, as amended by section 4, be deemed—

10 (a) where the person to whom the notification relates is not the licensee or one of a number of joint licensees—to have appointed that person under section 145E (4) of that Act, as so amended, to be the person in charge at that place of business; or

15 (b) where the person to whom the notification relates is the licensee or one of a number of joint licensees—to have nominated that place of business under section 145E (3) of that Act, as so amended, as the place of business at which he is the person in charge.

20 (7) A reference in subsection (6) to a notification is, where there was more than one such notification, a reference to the later or latest such notification.

25 (8) A person who, immediately before the commencement of section 4, is the holder of a license, not being a license to open or carry on a theatrical agency, issued under the Principal Act—

30 (a) who fails to retain for the period of six months following that commencement the originals of all letters received by him in connection with his business as a private employment agent during the period of six months that immediately preceded that commencement;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

5 (b) who has in his possession or under his control any registers referred to in section 139 of the Principal Act and who fails, after that commencement, to retain those registers for the period of twelve months following that commencement; or

10 (c) who fails to permit the Under Secretary of the Department of Labour and Industry or an officer authorised by him to inspect the letters referred to in paragraph (a) and the registers referred to in paragraph (b),

is guilty of an offence and liable to a penalty not exceeding \$500.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975











# New South Wales



ANNO VICESIMO QUARTO

## ELIZABETHÆ II REGINÆ

\*\*\*\*\*

Act No. 107, 1975.

An Act to make further provisions with respect to the licensing of private employment agents and the fees payable to private employment agents by employees and employers; for these and other purposes to amend the Industrial Arbitration Act, 1940. [Assented to, 23rd December, 1975.]

BE



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short  
title.

1. This Act may be cited as the "Industrial Arbitration (Employment Agencies) Amendment Act, 1975".

Commence-  
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal  
Act.

3. The Industrial Arbitration Act, 1940, is, in this Act, referred to as the Principal Act.

Amendment  
of Act No.  
2, 1940.

4. The Principal Act is amended—

Sec. 2.  
(Division  
into  
Parts.)

(a) by omitting from section 2 the matter relating to Divisions 2 and 3 of Part XIV and by inserting instead the following matter:—

DIVISION 2.—*Theatrical agencies and employers—ss. 136–145.*

DIVISION 2A.—*Private employment agents—ss. 145A–145R.*

DIVISION 3.—*General provisions for the purposes of Part XIV—ss. 146–153.*

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (b) by inserting at the end of section 5 (1) the following definition :—

Sec. 5.  
(Interpretation.)

“Under Secretary” means the person for the time being holding the office of, or acting as, Under Secretary of the Department of Labour and Industry.

- (c) (i) by omitting from section 92 (6) the words “of the Department of Labour and Industry”;

Sec. 92.  
(Recovery of wages.)

- (ii) by omitting from section 92 (6) the word “said”;

- (d) by omitting the heading before section 136 and by inserting instead the following heading :—

Part XIV,  
Division 2:  
Heading.

*DIVISION 2.—Theatrical agencies and employers.*

- (e) by omitting from section 136 the words “Part of this Act” and by inserting instead the words “Division and in Division 3,”;

Sec. 136.  
(Definitions.)

- (f) (i) by omitting from section 137 (1) (a) the words “open or carry on for profit any agency for procuring or assisting to procure employment or labour, or any business having as one of its purposes the bringing together of intending employers and persons seeking employment, or”;

Sec. 137.  
(Persons carrying on theatrical agencies to be licensed and theatrical employers to hold permits.)

- (ii) by omitting from section 137 (1) the words “Part of this Act” wherever occurring and by inserting instead the word “Division”;

(iii)



---

*Industrial Arbitration (Employment Agencies) Amendment.*


---

(iii) by omitting from section 137 (2) the words "Every such license" and by inserting instead the words "A license referred to in subsection (1) (a)";

(iv) by omitting from section 137 (2) the words "agency or business or";

Sec. 138.  
(Application  
for license.)

(g) (i) by omitting from section 138 (1) the words "license or for the issue of a" and by inserting instead the words "theatrical agent's license or for the issue of a theatrical employer's";

(ii) by omitting from section 138 (2) the words "Part of this Act" and by inserting instead the word "Division";

Sec. 139.  
(Licensee  
to keep  
registers.)

(h) (i) by omitting from section 139 the words "Part of this Act" and by inserting instead the word "Division";

(ii) by omitting from section 139 (a) the words "and pays a fee in respect of his application," and by inserting instead the words "as a theatrical performer";

(iii) by omitting from section 139 (b) the words "labour, and pays a fee in respect of his application," and by inserting instead the words "a theatrical performer";

Sec. 140.  
(Scale of  
fees.)

(i) (i) by inserting in section 140 after the word "licensees" the words "under this Division";

(ii) by omitting from section 140 the words "or businesses" wherever occurring;

(j)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (j) (i) by inserting in section 141 (1) after the words "A licensee" the words "under this Division"; Sec. 141.  
(No fees to be received except those prescribed.)
- (ii) by omitting from section 141 (1) (a) the words "registration or engagement of any person" and by inserting instead the words "engagement of a theatrical performer";
- (iii) by inserting in section 141 (1) (c) before the word "employer" where firstly and secondly occurring the word "theatrical";
- (iv) by omitting from section 141 (1) (c) the word "employee" and by inserting instead the words "theatrical performer";
- (v) by inserting in section 141 (1) (c) before the word "employer" where thirdly occurring the word "such";
- (vi) by omitting from section 141 (1) (c) the words "a licensee" and by inserting instead the words "any such licensee";
- (vii) by inserting in section 141 (1) (d) after the word "employment" the words "as theatrical performers";
- (viii) by inserting in section 141 (4) after the word "any" where firstly occurring the word "such";
- (ix) by inserting in section 141 (4) after the word "employment" the words "as theatrical performers";

- (k) by omitting section 142;

Sec. 142.  
(Registration fee to be repaid if employment or labour not found.)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Sec. 143.  
(False  
statements  
or entries  
by licensees.)

- (l) (i) by inserting in section 143 after the words "A licensee" wherever occurring the words "under this Division";
- (ii) by omitting from section 143 the words "registers for employment" and by inserting instead the words "applies to him for employment as a theatrical performer";
- (iii) by omitting from section 143 the words "as in this Act provided" and by inserting instead the words "pursuant to section 139";

Sec. 144.  
(Conviction  
to be  
endorsed  
on license.)

- (m) by inserting in section 144 after the word "licensee" the words "under this Division";

Sec. 145.  
(Cancellat-  
ion of  
license or  
permit.)

- (n) by omitting from section 145 the words "Part of this Act" and by inserting instead the word "Division";

Part XIV,  
Division 2A.

- (o) by inserting after section 145 the following Division : —

DIVISION 2A.—*Private employment agents.*

Interpre-  
tation:  
Division 2A.

145A. In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

"license" means a license in force under this Division;

"licensee" includes a person who holds a license jointly with another person or other persons;

"regulation" means a regulation made for the purposes of this Division or made pursuant to section 153.

145B.



*Industrial Arbitration (Employment Agencies) Amendment.*

145B. (1) Subject to this section and section 145C, a person carries on the business of a private employment agent if he acts as an agent— Business of private employment agent.

- (a) for procuring or assisting to procure a person to carry out work for a person seeking to have work carried out; or
- (b) for procuring or assisting to procure employment for a person seeking to be employed,

whether that employment or work is to be undertaken or carried out pursuant to a contract of employment, or otherwise.

(2) A person who prints or publishes in a newspaper within the meaning of the Printing and Newspapers Act, 1973, or in a document within the meaning of that Act, an advertisement placed by or on behalf of a person seeking to have work carried out or by or on behalf of a person seeking to be employed does not, by reason only of the printing and publishing of that advertisement, carry on the business of a private employment agent.

(3) A person who carries out any of the functions referred to in subsection (1) in the course of his employment by some other person does not, by reason only of his so carrying out those functions, carry on the business of a private employment agent.

145C. (1) The Governor may, by regulation, Exemptions. exempt any person or any class of persons from the operation of all or any of the provisions of this Division.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

(3) Where an exemption under subsection (1) is given subject to conditions the exemption does not have effect during any period when the conditions are not being complied with.

(4) It is a sufficient defence to a prosecution arising under this Division if the defendant proves that at the relevant time he was a person, or a member of a class of persons, exempted from the operation of this Division by subsection (1) and, where that exemption was given subject to any condition, that he was, at that time, complying with that condition.

Private  
employ-  
ment  
agents to  
be  
licensed.

145D. (1) Subject to this Division, where a person carries on the business of a private employment agent—

- (a) he shall not demand or receive any fee, charge or remuneration in respect of that business except in accordance with the authority of a license held by him; and
- (b) he shall not, where he is the holder of a license, carry on that business at a place other than the place to which that or another license held by him relates.

(2)



**Industrial Arbitration (Employment Agencies) Amendment.**

(2) A person who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

145E. (1) A person shall not act as the person in charge at the place of business to which a license relates unless—

Persons to be in charge at each place of business.

(a) not being a corporation, he is the licensee, or one of a number of joint licensees, and the place of business is the place of business nominated under subsection (3) in respect of that licensee;

(b) he is a person appointed under subsection (4) in respect of that place of business; or

(c) he is not a person referred to in paragraph (a) or (b) and is so acting—

(i) for a period not exceeding one month in the place of an absent person so referred to; or

(ii) for a period not exceeding seven days pending an appointment under subsection (4).



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) A licensee or, where there are joint licensees, a joint licensee, shall not, in respect of a place of business to which his license relates, permit a contravention of subsection (1).

(3) Where a person is a licensee, or one of a number of joint licensees, in respect of more than one place of business, he shall not—

(a) act as the person in charge at more than one of those places of business; or

(b) act as the person in charge at any of those places of business unless he has, by instrument in writing signed by him or, where he is a joint licensee, by all of the joint licensees, and lodged with the Under Secretary, nominated that place as the place of business at which he will be the person in charge.

(4) A licensee may appoint a person as the person in charge at the place of business to which his license relates by lodging with the Under Secretary a notice in the prescribed form signed by the licensee or, where there are joint licensees, by all of the joint licensees, that contains the prescribed particulars.

(5) An appointment under subsection (4) takes effect on the day on which the prescribed form relating to the appointment is lodged with the Under Secretary or, where a later day is specified in the form, on that later day.

(6)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(6) A licensee shall not appoint a person as the person in charge at the place of business to which his license relates if the licensee knows, or ought reasonably to know, that within the last preceding period of twelve months—

(a) an application by that person for a license has been refused; or

(b) a license held by that person has been cancelled,

unless an industrial magistrate, upon an appeal under this Division against the refusal or cancellation, has found that person to be a fit person to hold, or continue to hold, a license.

(7) Subject to subsection (8), a nomination referred to in subsection (3) (b) or an appointment under subsection (4) ceases to have effect on the day on which a notice in or to the effect of the prescribed form, signed by or on behalf of the licensee of that place of business, is lodged with the Under Secretary.

(8) Where a notice referred to in subsection (7) specifies a day, being a day that is after the day on which the notice is lodged, as the day on which the nomination or appointment to which it relates ceases to have effect, that nomination or appointment, as the case may be, ceases to have effect on the day specified in the notice.

(9) A person who fails to comply with any of the provisions of this section is guilty of an offence and liable to a penalty not exceeding \$500.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Application  
for license  
as private  
employment  
agent.

145F. (1) An application for the grant of a license shall—

- (a) be made in the prescribed form;
- (b) contain the prescribed particulars;
- (c) specify the class of license applied for;
- (d) be accompanied by a page of a newspaper circulating generally throughout the State, being a page in which was published, at least seven, but not more than fourteen, days before the making of the application, a notice in the prescribed form with respect to the application;
- (e) be accompanied by the prescribed fee; and
- (f) be lodged with the Under Secretary.

(2) Where a business for which a license is required is to be carried on at more than one place of business, a separate application for the grant of a license in respect of each such place shall be lodged with the Under Secretary.

(3) A regulation made for the purposes of subsection (1) (a) or (b) may be made so as to apply differently according to such factors as may be specified in the regulation.

Inquiries  
and  
objections.

145G. (1) The Under Secretary may request the Commissioner of Police to report to him whether or not—

- (a) an applicant for a license;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) a proposed partner of an applicant for a license in the business in respect of which the license is applied for;
- (c) a director of a corporation that is an applicant for a license;
- (d) a director of a corporation that is a proposed partner of an applicant for a license in the business in respect of which the license is applied for; or
- (e) a person in respect of whom notice of an appointment is lodged under section 145E (4),

is, or if he were the applicant for a license would be, a fit person to be the holder of a license and on receipt of any such request the Commissioner of Police shall cause to be made such inquiries as he deems necessary in order to comply with the request and shall furnish a report of the result of those inquiries to the Under Secretary.

(2) A person may, within twenty-one days after the publication of a notice referred to in section 145F (1) (d), lodge with the Under Secretary a notice of objection in respect of the application to which the notice relates.

(3) A notice of objection referred to in subsection (2) shall be a statutory declaration in or to the effect of the prescribed form, shall contain the prescribed particulars and shall be lodged in the prescribed manner.

(4)



*Industrial Arbitration (Employment Agencies) Amendment.*

(4) The Under Secretary may, by instrument in writing served on the applicant for a license or on a licensee who makes an appointment under section 145E (4), require that applicant or licensee or, where there is more than one, any one or more of them, to furnish within the period specified in the instrument such further information and documents as he may reasonably require in connection with the application or appointment and may specify in the instrument.

(5) An instrument referred to in subsection (4) may be served by sending the instrument by certified mail addressed to the applicant or licensee at his address last known to the Under Secretary or by causing it to be delivered to the applicant or licensee personally.

Disposal of  
applications  
for licenses.

145H. (1) An application for the grant of a license shall not be dealt with before the expiration of fourteen days after the application is lodged with the Under Secretary.

(2) Where the Under Secretary is satisfied with respect to an application for the grant of a license—

- (a) that the notice referred to in section 145F (1) (d) relating to the application has been duly published;

(b)



*Industrial Arbitration (Employment Agencies) Amendment.*

(b) in the case of an application for the grant of a license referred to in section 145i (1) (a), that the Under Secretary is not prohibited by section 145i (2) from granting to the applicant a license so referred to;

(c) that—

(i) the applicant is;

(ii) where the applicant is a corporation—each director of the corporation is;

(iii) each proposed partner (if any) of the applicant in carrying on the business of a private employment agent is; and

(iv) where any such proposed partner is a corporation—each director of that corporation is,

a fit person to hold a license;

(d) that—

(i) where the applicant is not a corporation—the applicant is;

(ii) where the applicant is a corporation—each director of the applicant who is not himself a corporation is;

(iii)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(iii) where a proposed partner (if any) of the applicant in carrying on the business of a private employment agent is not a corporation—that proposed partner is; and

(iv) where any such proposed partner is a corporation—each director of that corporation who is not himself a corporation is,

of or above the age of eighteen years; and

(e) that the premises specified in the application as being the place of business in respect of which the application is made are reasonably suitable for carrying on the business of a private employment agent,

the Under Secretary shall grant and issue to the applicant a license of the class applied for in respect of that place of business.

(3) In considering for the purposes of subsection (2) (c) whether a person is or would be a fit person to hold a license the Under Secretary—

(a) shall, in the case of a person other than a corporation, have regard to his character;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(b) shall have regard to any report relating to that person furnished under section 145G (1) by the Commissioner of Police; and

(c) shall have regard to such other matters, including any matter specified in any notice of objection lodged under section 145G (2), as the Under Secretary considers relevant for the purpose of determining the fitness of the applicant to hold a license.

(4) Where, in relation to an application, the Under Secretary is not satisfied as to any one or more of the matters specified in subsection (2) he shall refuse the application and send to the applicant by certified mail addressed to the applicant at his address last known to the Under Secretary, or deliver to the applicant personally, a notice in writing of the refusal.

(5) In the case of an application made by more than one person it is a sufficient compliance with subsection (4) if the notice referred to in that subsection is served on any one of the applicants.

(6) A notice referred to in subsection (4) shall state the reasons for the refusal.

(7) The day on which a notice referred to in subsection (4) is served is—

(a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or

(b) where the notice is delivered to the applicant personally, the day when it is so delivered.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

**Classes of  
licenses.**

145I. (1) A license authorises the holder thereof, in respect of the carrying on by him of the business of a private employment agent at the place specified in the license—

- (a) to demand and receive a fee, charge or remuneration from any person; or
- (b) to demand and receive a fee, charge or remuneration only from a person who employs labour,

whichever is specified in the license.

(2) A license conferring the authority referred to in subsection (1) (a) shall not be granted after 31st December, 1980.

(3) Subject to this Division, a license conferring the authority referred to in subsection (1) (a) that is in force on 31st December, 1980—

- (a) ceases after that day to confer that authority; and
- (b) takes effect after that day as a license conferring the authority referred to in subsection (1) (b).

**Form of  
license.**

145J. A license shall be in the prescribed form and, without prejudice to the inclusion in the license of any other particulars, shall—

- (a) specify the name of the person to whom the license is issued or, where the license is issued to more than one person, the names of the persons to whom the license is issued;
- (b) specify, in accordance with section 145I (1), the authority conferred by the license;

(c)



Industrial Arbitration (Employment Agencies) Amendment.

(c) specify the place of business in respect of which the license is granted; and

(d) specify the day of issue of the license.

145K. (1) A license has effect from and including the day specified in the license as the day of issue of the license. <sup>Duration of license.</sup>

(2) Subject to this Division, a license continues in force until it is cancelled under subsection (3) or under section 145L (3) (a) or 145M.

(3) If, before the expiration of the year commencing on the day on which a license takes effect, or the expiration of any year commencing on the anniversary of that day, the licensee fails—

(a) to lodge with the Under Secretary a statement in writing signed by him that contains the prescribed information, compiled as at a day not earlier than one month before the expiration of that year; or

(b) to pay the Under Secretary the prescribed fee for continuation of the license,

the Under Secretary may, at the expiration of the year so commencing during which the failure occurs, cancel the license.

(4) The provisions of section 145M (10) and (11) apply to a person whose license is cancelled under this section in the same way as they apply to a person whose license is cancelled under section 145M.

145L.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Notice of  
changed  
particulars.

145L. (1) Where—

- (a) a licensee ceases to carry on the business of a private employment agent;
- (b) the business of a licensee is carried on at a place other than the place specified in the license;
- (c) the name under which a licensee carries on business is changed;
- (d) the name of a corporation that is a licensee is changed;
- (e) a license is held by a corporation and the directors of the corporation are changed;
- (f) the nomination of a place of business under section 145E (3) (b) ceases to have effect or a licensee is, or is likely to be, absent for a period exceeding one month from the place of business so nominated as the place of business at which he is the person in charge;
- (g) an appointment under section 145E (4) in respect of a place of business of a licensee ceases to have effect or the appointee is, or is likely to be, absent from that place of business for a period exceeding one month;  
or
- (h) any other prescribed event relating to a license or licensee occurs,

the



*Industrial Arbitration (Employment Agencies) Amendment.*

the licensee shall, within the prescribed time and in the prescribed manner, notify the Under Secretary of the occurrence of that event and of such particulars as may be prescribed in respect of the event and shall, when giving notice of an event specified in paragraph (a), (b), (c) or (d) surrender the license to the Under Secretary, for cancellation in the case of the event specified in paragraph (a) or for amendment in the case of an event specified in paragraph (b), (c) or (d).

(2) A regulation prescribing other events in respect of which notice shall be given to the Under Secretary may require the licensee to surrender his license for cancellation or amendment when giving notice of the event.

(3) The Under Secretary—

(a) shall cancel a license surrendered for cancellation; or

(b) may amend a license surrendered for amendment,

pursuant to subsection (1) or a regulation made pursuant to subsection (2).

(4) A licensee who fails to comply with the provisions of subsection (1) is guilty of an offence and liable to a penalty not exceeding \$200.

145M. (1) The Under Secretary may, for such reason as he thinks fit, cancel a license. Cancellation of license.

(2)



*Industrial Arbitration (Employment Agencies) Amendment.*

(2) Without limiting the generality of subsection (1), the Under Secretary may cancel a license if he is satisfied—

(a) that a licensee or a director of a corporation that is a licensee made a statement in or in connection with—

(i) the application for the grant of the license; or

(ii) a statement referred to in section 145K (3) (a),

that was false or misleading in a material particular;

(b) that a licensee is not a fit person to continue to be the holder of the license;

(c) that a director of a corporation that is a licensee would not, if he were the holder of a license, be a fit person to continue to be the holder of the license;

(d) that a corporation, being a licensee, is not a fit person to continue to be the holder of the license;

(e) that a person appointed by a licensee to be the person in charge at the place of business in respect of which the license is issued would not, if he were the holder of a license, be or, as the case may be, continue to be, a fit person to be the holder of a license;

(f) that a licensee has failed to comply with the provisions of section 145L (1);

(2)

(g)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (g) that the business of a licensee as a private employment agent has not been or is not being properly conducted;
- (h) that the premises in which the business of a licensee is being carried on are not, or have ceased to be, reasonably suitable for carrying on the business of a private employment agent; or
- (i) that a licensee has been convicted of an offence against this Division.

(3) Where he proposes to cancel a license the Under Secretary shall, except where—

- (a) a request has been made by the licensee or all of the joint licensees for the cancellation; or
- (b) the Under Secretary is satisfied—
  - (i) that the licensee, not being a corporation, has died;
  - (ii) that a partnership being carried on by joint licensees has been dissolved; or
  - (iii) that the licensee, being a corporation, has been wound up,

give the licensee a notice in writing setting forth the reasons for the proposed cancellation and requiring the licensee, within such period as is specified in the notice, to show cause why the license should not be cancelled.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(4) Where upon the expiration of the period specified in any notice given pursuant to subsection (3), or of such further period as the Under Secretary may allow, the Under Secretary cancels a license he shall cause a notice of cancellation to be served on the licensee by sending the notice by certified mail addressed to the licensee at the place of business in respect of which the license was granted, or by causing it to be delivered to the licensee personally.

(5) In the case of a license issued to joint licensees it is a sufficient compliance with subsection (4) if the notice of cancellation is served on any one of the joint licensees.

(6) A notice of cancellation shall state the reasons for the cancellation of the license.

(7) Subject to subsection (8), the cancellation of a license takes effect upon the expiration of the day that is twenty-one days after the day on which the notice of cancellation is served.

(8) Where a licensee appeals under section 145N against the cancellation of the license, the cancellation shall have effect—

- (a) only if the industrial magistrate hearing the appeal confirms the cancellation or if the appeal is withdrawn; and
- (b) on the day on which the industrial magistrate confirms the cancellation, or such later day as the industrial magistrate orders or, if the appeal is withdrawn, on the day on which it is withdrawn.

(9)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(9) The day on which a notice of cancellation is served is—

- (a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or
- (b) where the notice is delivered to the licensee personally, the day when it is so delivered.

(10) A person who was the holder of a license and who, upon the cancellation of the license taking effect, fails to forthwith deliver the license to the Under Secretary is guilty of an offence and liable to a penalty not exceeding \$200.

(11) A person who was a joint licensee is not guilty of an offence referred to in subsection (10) if another of the persons who were joint licensees delivers the license to the Under Secretary.

145N. (1) In subsection (5), “day of service” Appeals means—

- (a) in the case of an appeal against a refusal to grant a license, the day of service of the notice of refusal; and
- (b) in the case of an appeal against a cancellation of a license, the day of service of the notice of cancellation.

(2) An applicant for the grant of a license may appeal to an industrial magistrate against the refusal of the Under Secretary to grant the license.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A licensee may appeal to an industrial magistrate against the cancellation by the Under Secretary of the license.

(4) Where an application for the grant of a license made by more than one person is refused or a license held by more than one person is cancelled, an appeal under this section against the refusal or cancellation may be made by any of the applicants or licensees, as the case may be, on behalf of all of the applicants or licensees, or by all of the applicants or licensees jointly, but not otherwise.

(5) Notice of an appeal under this section, specifying the grounds of appeal, shall be lodged with the registrar not later than twenty-one days after the day of service.

(6) The registrar shall give notice of the time and place of the hearing of an appeal under this section to the Under Secretary and to the person or persons appealing and shall state in the notice to the Under Secretary the grounds of the appeal.

(7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (6) or the failure to give any such notice if the industrial magistrate is satisfied that any person appealing and the Under Secretary had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by failure to give any such notice.

(8)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(8) Where relevant, a report furnished pursuant to section 145G (1) to the Under Secretary by the Commissioner of Police and certified by the Under Secretary to have been so furnished shall be received in proceedings before an industrial magistrate under this section as evidence of the contents of the report.

(9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm or disallow the refusal or cancellation appealed against.

(10) Where a license is refused or cancelled on the ground that a person named in the application, or the licensee, as the case may be, is not a fit person to be, or continue to be, the holder of a license, the industrial magistrate hearing and determining the appeal shall determine whether or not that person or licensee is a fit person to be, or continue to be, the holder of a license.

(11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person or persons appealing and on the Under Secretary, who shall take such steps as may be necessary to give effect to the decision.

(12) Subject to this section, where regulations are made relating to the institution, hearing and determination of an appeal under this section, any such appeal shall be instituted, heard and determined in accordance with those regulations.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Registers  
to be kept.

145o. (1) The Under Secretary shall keep a register, in such form as he determines, of licenses issued under this Division and shall record therein in respect of each license—

- (a) the matters which under section 145J are required to be specified in the license;
- (b) particulars of any fees paid, or due but not paid, in respect of the license under section 145K (3) (b);
- (c) particulars of any amendment of the license made pursuant to section 145L (3) (b);
- (d) particulars of any cancellation of the license under section 145K (3), 145L (3) (a) or 145M; and
- (e) such other matters as may be prescribed.

(2) The Under Secretary shall keep a register, in such form as he determines, containing—

- (a) particulars of the name of each licensee who has been specified in an instrument referred to in section 145E (3) (b) as the person in charge at the place of business nominated in that instrument and particulars of the name of each person who has been appointed in accordance with section 145E (4);
- (b) particulars of each place of business so nominated and each place of business to which such an appointment relates;

(c)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (c) particulars of the date on which a nomination under section 145E (3) (b) and an appointment under section 145E (4) takes effect or ceases to have effect, as the case may require;
- (d) if he causes a notice of cancellation to be served on a licensee on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license, a note to that effect; and
- (e) particulars of the result of any appeal against the cancellation of a license on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license.

(3) The Under Secretary may make such alterations in the registers referred to in subsections (1) and (2) as are necessary to ensure that the matters recorded therein in respect of any license or person are accurate.

(4) A certificate purporting to be signed by the Under Secretary certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1) or (2) did or did not appear in the registers referred to in those subsections shall, in all courts and upon all occasions, without proof of the signature of the Under Secretary and without the production of any record or document upon which the certificate is founded, be evidence of the particulars certified in and by the certificate.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Performance  
of Under  
Secretary's  
functions.

145P. Anything authorised or required by or under this Division to be done by, lodged with or paid to the Under Secretary may be done by, lodged with or paid to any officer of the Department of Labour and Industry who is authorised generally or specially in that behalf in writing by the Under Secretary, and anything purporting to have been done by, lodged with or paid to an officer so authorised shall be deemed to have been done by, lodged with or paid to the Under Secretary.

Prescribed  
amount not  
to be  
exceeded.

145Q. (1) The holder of a license referred to in section 145I (1) (a) who, in respect of the carrying on by him of any of the functions of a private employment agent, directly or indirectly demands or receives from a person seeking work or seeking to be employed, pursuant to a contract of employment or otherwise—

- (a) an amount by way of a fee, charge or remuneration that is greater than the prescribed amount; or
- (b) a reward or consideration in addition to or instead of any amount that he may lawfully so demand or receive,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) The prescribed amount referred to in subsection (1) may be—

- (a) a monetary amount; or
- (b) a percentage of the salary, wage or remuneration payable to a person in respect of that person's employment during such period as is prescribed.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A regulation may be made requiring a licensee who has arranged for the employment of a person, at the option of the employee—

- (a) to refund any amount paid to the licensee in consideration of that arrangement; or
- (b) to find alternative employment for that person,

if the employment is terminated, in the circumstances specified in the regulation, before the expiration of two weeks or, where the employment was arranged for a period of less than two weeks, before the expiration of that period.

(4) A regulation made for the purposes of subsection (2) or (3) may be made so as to apply differently according to such factors as are specified in the regulation.

145R. (1) A licensee who—

Offences  
by  
licensees.

- (a) fails to keep a register or registers, in such form as is approved by the Under Secretary, containing particulars of the name and address of every person who applies to him for employment and of every person who applies to him for labour and the nature of the employment or labour required or to retain a register so kept for a period of twelve months after the making of the last entry therein;
- (b) fails to keep a register, in such form as is approved by the Under Secretary, containing particulars of all engagements made by

or



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

or through the licensee, of any fee, charge or remuneration received in respect of any such engagement and of the name of the person from whom any such fee, charge or remuneration was received or to retain any such register for a period of twelve months after the making of the last entry therein;

- (c) fails to retain the originals of all letters received by the licensee in connection with his business as a private employment agent for the period of twelve months after their receipt;
- (d) fails to permit the Under Secretary or an officer authorised by him, at any reasonable hour, to inspect the registers referred to in paragraphs (a) and (b) and the letters referred to in paragraph (c);
- (e) fails to inform a person who applies to him for employment of the prescribed amount, if any, that may be payable by that person;
- (f) where the Under Secretary, by notice in writing served in the manner specified in section 145M (4), requires that licensee to furnish him, within such time as is, or at such times as are, specified in the notice, with information in writing relating to all or any of the particulars contained in the register referred to in paragraph (b), fails to furnish that information within the time or at any of the times so specified;
- (g) except when the license issued to him has been surrendered to the Under Secretary in accordance with this Division, fails to display the license in a conspicuous position in the premises to which it relates;

(h)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (h) makes any false entry in a register referred to in paragraph (a) or (b);
- (i) advertises or causes to be advertised, or publishes or causes to be published, any matter that, by its tenor, suggests, implies or infers that the matter is not advertised or published by or on behalf of a private employment agent; or
- (j) advertises or causes to be advertised a position as being available when no such position exists,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) Where a corporation commits an offence under this Part and the offence is proved to have been committed with the consent or approval of a director, secretary or manager of the corporation, that director, secretary or manager is also guilty of that offence and liable to the penalty provided in respect of that offence.

- (p) by inserting before section 146 the following heading :—

Part XIV,  
Division 3:  
Heading.

**DIVISION 3.—General provisions for the purposes of Part XIV.**

- (q) (i) by inserting in section 146 after the word "license" where firstly occurring the words "under this Part";
- (ii) by inserting in section 146 after the word "hold" the word "such";

Sec. 146.  
(Where  
license  
cancelled  
holder not  
qualified  
to obtain  
license.)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Sec. 147.  
(Production  
of license.)

- (r) by inserting in section 147 after the word "licensee" the words "under this Part";

Sec. 148.  
(Loss or  
destruction  
of license.)

- (s) by omitting from section 148 the words "and on the payment of ten cents, the Minister may, at the request" and by inserting instead the following words :—

under this Part—

- (a) where the license is a license issued under Division 2, the Minister; and

- (b) where the license is a license issued under Division 2A, the Under Secretary,

may, at the request;

Part XIV,  
Division 3:  
Heading.

- (t) by omitting the heading before section 149;

Sec. 149.  
(Offences.)

- (u) by omitting from section 149 the words "this Part of this Act" and by inserting instead the matter "Division 2";

Sec. 150.  
(Penalty  
for con-  
travention  
of Act.)

- (v) by omitting from section 150 the words "of this Act" wherever occurring;

Sec. 151.  
(Who may  
take pro-  
ceedings.)

- (w) (i) by omitting from section 151 the words "of this Act";
- (ii) by omitting from section 151 the words "by any" and by inserting instead the words "only by a";

(x)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (x) by inserting in section 152 after the word “pre-  
scribed” the words “for the purposes of Division 2”; Sec. 152.  
(Copy of  
entries in  
registers  
to be  
evidence.)
- (y) by omitting from section 153 the words “of this Act”  
wherever occurring. Sec. 153.  
(Regula-  
tions.)

5. (1) A license, not being a license to open or carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act and in force immediately before the commencement of section 4 shall, upon that commencement, be deemed to be a license referred to in section 145I (1) (a) of that Act, as amended by section 4, that—

Transitional  
and saving  
provisions.

- (a) is issued to the person named in the license;
- (b) is issued in respect of the place of business specified in the license or, where the business is being conducted at some other place and the Minister or the Under Secretary of the Department of Labour and Industry has been notified thereof in writing, the place of business so notified; and
- (c) subject to subsection (4), continues in force until it is cancelled under section 145K (3), 145L (3) (a) or 145M of that Act, as so amended.

(2) Where, immediately before the commencement of section 4, an application made under the provisions of section 138 of the Principal Act has not been determined, that application shall be determined as if this Act had not been enacted.

(3) Subsection (1) applies to and in respect of a license granted pursuant to an application referred to in subsection (2) in the same way as it applies to a license in force immediately before the commencement of section 4.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(4) Where the holder of a license referred to in subsection (1) or (3) surrenders the license held by him that, by subsection (1), is deemed to be a license referred to in section 145I (1) (a) of the Principal Act, as amended by section 4, the Under Secretary of the Department of Labour and Industry may, if that license is still in force—

- (a) unless that person makes the request referred to in paragraph (b), without fee issue to that person a license referred to in section 145I (1) (a) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license; or
- (b) where that person so requests, without fee issue to that person a license referred to in section 145I (1) (b) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license,

and upon the issue of any such license the provisions of subsection (1) cease to have effect in relation to the surrendered license.

(5) Where a license, not being a license to open or carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act, as amended by section 4, specifies the names of more than one person those persons shall, upon the operation of subsection (1), be deemed to be joint licensees under Division 2A of Part XIV of the Principal Act, as amended by section 4.

(6)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(6) Where before the commencement of section 4 the Under Secretary of the Department of Labour and Industry was notified in writing of the name of a person who is to have, or has, the management of the business of a private employment agent carried on at a specified place the licensee carrying on that business shall, subject to section 145E (7) and (8) of the Principal Act, as amended by section 4, be deemed—

- (a) where the person to whom the notification relates is not the licensee or one of a number of joint licensees—to have appointed that person under section 145E (4) of that Act, as so amended, to be the person in charge at that place of business; or
- (b) where the person to whom the notification relates is the licensee or one of a number of joint licensees—to have nominated that place of business under section 145E (3) of that Act, as so amended, as the place of business at which he is the person in charge.

(7) A reference in subsection (6) to a notification is, where there was more than one such notification, a reference to the later or latest such notification.

(8) A person who, immediately before the commencement of section 4, is the holder of a license, not being a license to open or carry on a theatrical agency, issued under the Principal Act—

- (a) who fails to retain for the period of six months following that commencement the originals of all letters received by him in connection with his business as a private employment agent during the period of six months that immediately preceded that commencement;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) who has in his possession or under his control any registers referred to in section 139 of the Principal Act and who fails, after that commencement, to retain those registers for the period of twelve months following that commencement; or
- (c) who fails to permit the Under Secretary of the Department of Labour and Industry or an officer authorised by him to inspect the letters referred to in paragraph (a) and the registers referred to in paragraph (b),

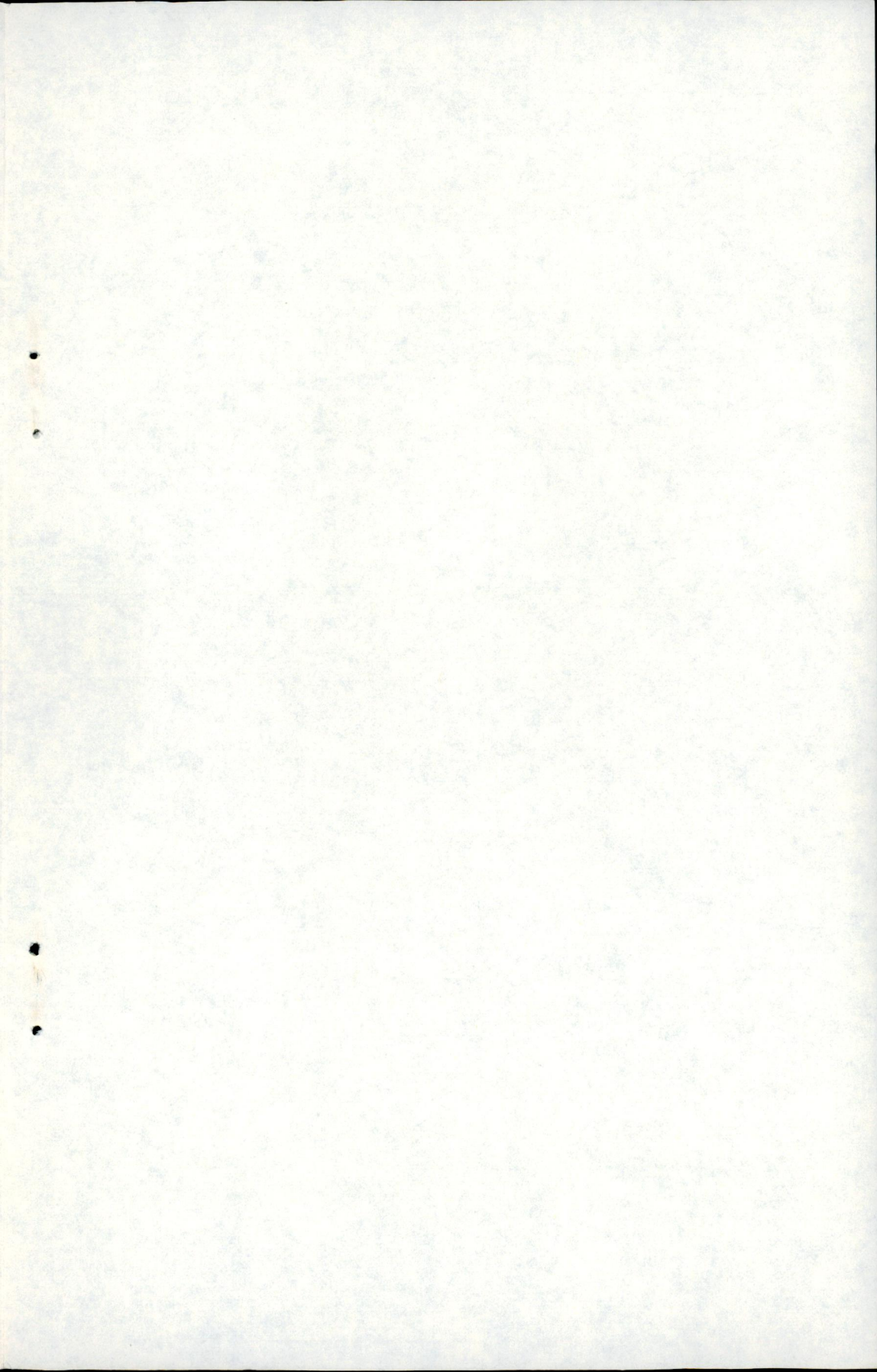
is guilty of an offence and liable to a penalty not exceeding \$500.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976











*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 9 December, 1975.*

## **New South Wales**



**ANNO VICESIMO QUARTO**

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 107, 1975.**

An Act to make further provisions with respect to the licensing of private employment agents and the fees payable to private employment agents by employees and employers; for these and other purposes to amend the Industrial Arbitration Act, 1940. [Assented to, 23rd December, 1975.]

**BE**

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

**J. H. BROWN,**  
*Chairman of Committees of the Legislative Assembly.*



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short  
title.

1. This Act may be cited as the "Industrial Arbitration (Employment Agencies) Amendment Act, 1975".

Commence-  
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal  
Act.

3. The Industrial Arbitration Act, 1940, is, in this Act, referred to as the Principal Act.

Amendment  
of Act No.  
2, 1940.

4. The Principal Act is amended—

Sec. 2.  
(Division  
into  
Parts.)

(a) by omitting from section 2 the matter relating to Divisions 2 and 3 of Part XIV and by inserting instead the following matter :—

DIVISION 2.—*Theatrical agencies and employers—ss. 136–145.*

DIVISION 2A.—*Private employment agents—ss. 145A–145R.*

DIVISION 3.—*General provisions for the purposes of Part XIV—ss. 146–153.*

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) by inserting at the end of section 5 (1) the following definition :—
- Sec. 5.  
(Interpretation.)

“Under Secretary” means the person for the time being holding the office of, or acting as, Under Secretary of the Department of Labour and Industry.

- (c) (i) by omitting from section 92 (6) the words “of the Department of Labour and Industry”; Sec. 92.  
(Recovery of wages.)

- (ii) by omitting from section 92 (6) the word “said”;

- (d) by omitting the heading before section 136 and by inserting instead the following heading :— Part XIV,  
Division 2:  
Heading.

DIVISION 2.—*Theatrical agencies and employers.*

- (e) by omitting from section 136 the words “Part of this Act” and by inserting instead the words “Division and in Division 3,”; Sec. 136.  
(Definitions.)

- (f) (i) by omitting from section 137 (1) (a) the words “open or carry on for profit any agency for procuring or assisting to procure employment or labour, or any business having as one of its purposes the bringing together of intending employers and persons seeking employment, or”; Sec. 137.  
(Persons carrying on theatrical agencies to be licensed and theatrical employers to hold permits.)

- (ii) by omitting from section 137 (1) the words “Part of this Act” wherever occurring and by inserting instead the word “Division”;

(iii)



*Industrial Arbitration (Employment Agencies) Amendment.*

(iii) by omitting from section 137 (2) the words "Every such license" and by inserting instead the words "A license referred to in subsection (1) (a)";

(iv) by omitting from section 137 (2) the words "agency or business or";

Sec. 138.  
(Application  
for license.)

(g) (i) by omitting from section 138 (1) the words "license or for the issue of a" and by inserting instead the words "theatrical agent's license or for the issue of a theatrical employer's";

(ii) by omitting from section 138 (2) the words "Part of this Act" and by inserting instead the word "Division";

Sec. 139.  
(Licensee  
to keep  
registers.)

(h) (i) by omitting from section 139 the words "Part of this Act" and by inserting instead the word "Division";

(ii) by omitting from section 139 (a) the words ", and pays a fee in respect of his application," and by inserting instead the words "as a theatrical performer";

(iii) by omitting from section 139 (b) the words "labour, and pays a fee in respect of his application," and by inserting instead the words "a theatrical performer";

Sec. 140.  
(Scale of  
fees.)

(i) (i) by inserting in section 140 after the word "licensees" the words "under this Division";

(ii) by omitting from section 140 the words "or businesses" wherever occurring;

(j)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (j) (i) by inserting in section 141 (1) after the words "A licensee" the words "under this Division"; (No fees to be received except those prescribed.)
- (ii) by omitting from section 141 (1) (a) the words "registration or engagement of any person" and by inserting instead the words "engagement of a theatrical performer";
- (iii) by inserting in section 141 (1) (c) before the word "employer" where firstly and secondly occurring the word "theatrical";
- (iv) by omitting from section 141 (1) (c) the word "employee" and by inserting instead the words "theatrical performer";
- (v) by inserting in section 141 (1) (c) before the word "employer" where thirdly occurring the word "such";
- (vi) by omitting from section 141 (1) (c) the words "a licensee" and by inserting instead the words "any such licensee";
- (vii) by inserting in section 141 (1) (d) after the word "employment" the words "as theatrical performers";
- (viii) by inserting in section 141 (4) after the word "any" where firstly occurring the word "such";
- (ix) by inserting in section 141 (4) after the word "employment" the words "as theatrical performers";

(k) by omitting section 142;

Sec. 142.  
(Registration fee to be repaid if employment or labour not found.)

(1)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Sec. 143.  
(False  
statements  
or entries  
by licensees.)

- (1) (i) by inserting in section 143 after the words "A licensee" wherever occurring the words "under this Division";
- (ii) by omitting from section 143 the words "registers for employment" and by inserting instead the words "applies to him for employment as a theatrical performer";
- (iii) by omitting from section 143 the words "as in this Act provided" and by inserting instead the words "pursuant to section 139";

Sec. 144.  
(Conviction  
to be  
endorsed  
on license.)

- (m) by inserting in section 144 after the word "licensee" the words "under this Division";

Sec. 145.  
(Cancellat-  
ion of  
license or  
permit.)

- (n) by omitting from section 145 the words "Part of this Act" and by inserting instead the word "Division";

Part XIV,  
Division 2A.

- (o) by inserting after section 145 the following Division :—

*DIVISION 2A.—Private employment agents.*

Interpre-  
tation:  
Division 2A.

145A. In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

"license" means a license in force under this Division;

"licensee" includes a person who holds a license jointly with another person or other persons;

"regulation" means a regulation made for the purposes of this Division or made pursuant to section 153.

145B.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

145B. (1) Subject to this section and section 145C, a person carries on the business of a private employment agent if he acts as an agent—

Business  
of  
private  
employment  
agent.

- (a) for procuring or assisting to procure a person to carry out work for a person seeking to have work carried out; or
- (b) for procuring or assisting to procure employment for a person seeking to be employed,

whether that employment or work is to be undertaken or carried out pursuant to a contract of employment, or otherwise.

(2) A person who prints or publishes in a newspaper within the meaning of the Printing and Newspapers Act, 1973, or in a document within the meaning of that Act, an advertisement placed by or on behalf of a person seeking to have work carried out or by or on behalf of a person seeking to be employed does not, by reason only of the printing and publishing of that advertisement, carry on the business of a private employment agent.

(3) A person who carries out any of the functions referred to in subsection (1) in the course of his employment by some other person does not, by reason only of his so carrying out those functions, carry on the business of a private employment agent.

145C. (1) The Governor may, by regulation, exempt any person or any class of persons from the operation of all or any of the provisions of this Division.

Exemptions.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

(3) Where an exemption under subsection (1) is given subject to conditions the exemption does not have effect during any period when the conditions are not being complied with.

(4) It is a sufficient defence to a prosecution arising under this Division if the defendant proves that at the relevant time he was a person, or a member of a class of persons, exempted from the operation of this Division by subsection (1) and, where that exemption was given subject to any condition, that he was, at that time, complying with that condition.

Private  
employ-  
ment  
agents to  
be  
licensed.

145D. (1) Subject to this Division, where a person carries on the business of a private employment agent—

(a) he shall not demand or receive any fee, charge or remuneration in respect of that business except in accordance with the authority of a license held by him; and

(b) he shall not, where he is the holder of a license, carry on that business at a place other than the place to which that or another license held by him relates.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) A person who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

145E. (1) A person shall not act as the person in charge at the place of business to which a license relates unless—

Persons to  
be in charge  
at each  
place of  
business.

(a) not being a corporation, he is the licensee, or one of a number of joint licensees, and the place of business is the place of business nominated under subsection (3) in respect of that licensee;

(b) he is a person appointed under subsection (4) in respect of that place of business; or

(c) he is not a person referred to in paragraph (a) or (b) and is so acting—

(i) for a period not exceeding one month in the place of an absent person so referred to; or

(ii) for a period not exceeding seven days pending an appointment under subsection (4).

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) A licensee or, where there are joint licensees, a joint licensee, shall not, in respect of a place of business to which his license relates, permit a contravention of subsection (1).

(3) Where a person is a licensee, or one of a number of joint licensees, in respect of more than one place of business, he shall not—

(a) act as the person in charge at more than one of those places of business; or

(b) act as the person in charge at any of those places of business unless he has, by instrument in writing signed by him or, where he is a joint licensee, by all of the joint licensees, and lodged with the Under Secretary, nominated that place as the place of business at which he will be the person in charge.

(4) A licensee may appoint a person as the person in charge at the place of business to which his license relates by lodging with the Under Secretary a notice in the prescribed form signed by the licensee or, where there are joint licensees, by all of the joint licensees, that contains the prescribed particulars.

(5) An appointment under subsection (4) takes effect on the day on which the prescribed form relating to the appointment is lodged with the Under Secretary or, where a later day is specified in the form, on that later day.

(6)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(6) A licensee shall not appoint a person as the person in charge at the place of business to which his license relates if the licensee knows, or ought reasonably to know, that within the last preceding period of twelve months—

(a) an application by that person for a license has been refused; or

(b) a license held by that person has been cancelled,

unless an industrial magistrate, upon an appeal under this Division against the refusal or cancellation, has found that person to be a fit person to hold, or continue to hold, a license.

(7) Subject to subsection (8), a nomination referred to in subsection (3) (b) or an appointment under subsection (4) ceases to have effect on the day on which a notice in or to the effect of the prescribed form, signed by or on behalf of the licensee of that place of business, is lodged with the Under Secretary.

(8) Where a notice referred to in subsection (7) specifies a day, being a day that is after the day on which the notice is lodged, as the day on which the nomination or appointment to which it relates ceases to have effect, that nomination or appointment, as the case may be, ceases to have effect on the day specified in the notice.

(9) A person who fails to comply with any of the provisions of this section is guilty of an offence and liable to a penalty not exceeding \$500.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Application  
for license  
as private  
employment  
agent.

145F. (1) An application for the grant of a license shall—

- (a) be made in the prescribed form;
- (b) contain the prescribed particulars;
- (c) specify the class of license applied for;
- (d) be accompanied by a page of a newspaper circulating generally throughout the State, being a page in which was published, at least seven, but not more than fourteen, days before the making of the application, a notice in the prescribed form with respect to the application;
- (e) be accompanied by the prescribed fee; and
- (f) be lodged with the Under Secretary.

(2) Where a business for which a license is required is to be carried on at more than one place of business, a separate application for the grant of a license in respect of each such place shall be lodged with the Under Secretary.

(3) A regulation made for the purposes of subsection (1) (a) or (b) may be made so as to apply differently according to such factors as may be specified in the regulation.

Inquiries  
and  
objections.

145G. (1) The Under Secretary may request the Commissioner of Police to report to him whether or not—

- (a) an applicant for a license;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) a proposed partner of an applicant for a license in the business in respect of which the license is applied for;
- (c) a director of a corporation that is an applicant for a license;
- (d) a director of a corporation that is a proposed partner of an applicant for a license in the business in respect of which the license is applied for; or
- (e) a person in respect of whom notice of an appointment is lodged under section 145E (4),

is, or if he were the applicant for a license would be, a fit person to be the holder of a license and on receipt of any such request the Commissioner of Police shall cause to be made such inquiries as he deems necessary in order to comply with the request and shall furnish a report of the result of those inquiries to the Under Secretary.

(2) A person may, within twenty-one days after the publication of a notice referred to in section 145F (1) (d), lodge with the Under Secretary a notice of objection in respect of the application to which the notice relates.

(3) A notice of objection referred to in subsection (2) shall be a statutory declaration in or to the effect of the prescribed form, shall contain the prescribed particulars and shall be lodged in the prescribed manner.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(4) The Under Secretary may, by instrument in writing served on the applicant for a license or on a licensee who makes an appointment under section 145E (4), require that applicant or licensee or, where there is more than one, any one or more of them, to furnish within the period specified in the instrument such further information and documents as he may reasonably require in connection with the application or appointment and may specify in the instrument.

(5) An instrument referred to in subsection (4) may be served by sending the instrument by certified mail addressed to the applicant or licensee at his address last known to the Under Secretary or by causing it to be delivered to the applicant or licensee personally.

Disposal of  
applications  
for licenses.

145H. (1) An application for the grant of a license shall not be dealt with before the expiration of fourteen days after the application is lodged with the Under Secretary.

(2) Where the Under Secretary is satisfied with respect to an application for the grant of a license—

(a) that the notice referred to in section 145F (1) (d) relating to the application has been duly published;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(b) in the case of an application for the grant of a license referred to in section 145I (1) (a), that the Under Secretary is not prohibited by section 145I (2) from granting to the applicant a license so referred to;

(c) that—

- (i) the applicant is;
- (ii) where the applicant is a corporation—each director of the corporation is;
- (iii) each proposed partner (if any) of the applicant in carrying on the business of a private employment agent is; and
- (iv) where any such proposed partner is a corporation—each director of that corporation is,

a fit person to hold a license;

(d) that—

- (i) where the applicant is not a corporation—the applicant is;
- (ii) where the applicant is a corporation—each director of the applicant who is not himself a corporation is;

(iii)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(iii) where a proposed partner (if any) of the applicant in carrying on the business of a private employment agent is not a corporation—that proposed partner is; and

(iv) where any such proposed partner is a corporation—each director of that corporation who is not himself a corporation is,

of or above the age of eighteen years; and

(e) that the premises specified in the application as being the place of business in respect of which the application is made are reasonably suitable for carrying on the business of a private employment agent,

the Under Secretary shall grant and issue to the applicant a license of the class applied for in respect of that place of business.

(3) In considering for the purposes of subsection (2) (c) whether a person is or would be a fit person to hold a license the Under Secretary—

(a) shall, in the case of a person other than a corporation, have regard to his character;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(b) shall have regard to any report relating to that person furnished under section 145G (1) by the Commissioner of Police; and

(c) shall have regard to such other matters, including any matter specified in any notice of objection lodged under section 145G (2), as the Under Secretary considers relevant for the purpose of determining the fitness of the applicant to hold a license.

(4) Where, in relation to an application, the Under Secretary is not satisfied as to any one or more of the matters specified in subsection (2) he shall refuse the application and send to the applicant by certified mail addressed to the applicant at his address last known to the Under Secretary, or deliver to the applicant personally, a notice in writing of the refusal.

(5) In the case of an application made by more than one person it is a sufficient compliance with subsection (4) if the notice referred to in that subsection is served on any one of the applicants.

(6) A notice referred to in subsection (4) shall state the reasons for the refusal.

(7) The day on which a notice referred to in subsection (4) is served is—

(a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or

(b) where the notice is delivered to the applicant personally, the day when it is so delivered.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

**Classes of  
licenses.**

145I. (1) A license authorises the holder thereof, in respect of the carrying on by him of the business of a private employment agent at the place specified in the license—

- (a) to demand and receive a fee, charge or remuneration from any person; or
- (b) to demand and receive a fee, charge or remuneration only from a person who employs labour,

whichever is specified in the license.

(2) A license conferring the authority referred to in subsection (1) (a) shall not be granted after 31st December, 1980.

(3) Subject to this Division, a license conferring the authority referred to in subsection (1) (a) that is in force on 31st December, 1980—

- (a) ceases after that day to confer that authority; and
- (b) takes effect after that day as a license conferring the authority referred to in subsection (1) (b).

**Form of  
license.**

145J. A license shall be in the prescribed form and, without prejudice to the inclusion in the license of any other particulars, shall—

- (a) specify the name of the person to whom the license is issued or, where the license is issued to more than one person, the names of the persons to whom the license is issued;
- (b) specify, in accordance with section 145I (1), the authority conferred by the license;

(c)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(c) specify the place of business in respect of which the license is granted; and

(d) specify the day of issue of the license.

145K. (1) A license has effect from and including the day specified in the license as the day of issue of the license. <sup>Duration of license.</sup>

(2) Subject to this Division, a license continues in force until it is cancelled under subsection (3) or under section 145L (3) (a) or 145M.

(3) If, before the expiration of the year commencing on the day on which a license takes effect, or the expiration of any year commencing on the anniversary of that day, the licensee fails—

(a) to lodge with the Under Secretary a statement in writing signed by him that contains the prescribed information, compiled as at a day not earlier than one month before the expiration of that year; or

(b) to pay the Under Secretary the prescribed fee for continuation of the license,

the Under Secretary may, at the expiration of the year so commencing during which the failure occurs, cancel the license.

(4) The provisions of section 145M (10) and (11) apply to a person whose license is cancelled under this section in the same way as they apply to a person whose license is cancelled under section 145M.

145L.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Notice of  
changed  
particulars.

145L. (1) Where—

- (a) a licensee ceases to carry on the business of a private employment agent;
- (b) the business of a licensee is carried on at a place other than the place specified in the license;
- (c) the name under which a licensee carries on business is changed;
- (d) the name of a corporation that is a licensee is changed;
- (e) a license is held by a corporation and the directors of the corporation are changed;
- (f) the nomination of a place of business under section 145E (3) (b) ceases to have effect or a licensee is, or is likely to be, absent for a period exceeding one month from the place of business so nominated as the place of business at which he is the person in charge;
- (g) an appointment under section 145E (4) in respect of a place of business of a licensee ceases to have effect or the appointee is, or is likely to be, absent from that place of business for a period exceeding one month;  
or
- (h) any other prescribed event relating to a license or licensee occurs,

the



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

the licensee shall, within the prescribed time and in the prescribed manner, notify the Under Secretary of the occurrence of that event and of such particulars as may be prescribed in respect of the event and shall, when giving notice of an event specified in paragraph (a), (b), (c) or (d) surrender the license to the Under Secretary, for cancellation in the case of the event specified in paragraph (a) or for amendment in the case of an event specified in paragraph (b), (c) or (d).

(2) A regulation prescribing other events in respect of which notice shall be given to the Under Secretary may require the licensee to surrender his license for cancellation or amendment when giving notice of the event.

(3) The Under Secretary—

(a) shall cancel a license surrendered for cancellation; or

(b) may amend a license surrendered for amendment,

pursuant to subsection (1) or a regulation made pursuant to subsection (2).

(4) A licensee who fails to comply with the provisions of subsection (1) is guilty of an offence and liable to a penalty not exceeding \$200.

145M. (1) The Under Secretary may, for such reason as he thinks fit, cancel a license. Cancellation of license.

(2)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(2) Without limiting the generality of subsection (1), the Under Secretary may cancel a license if he is satisfied—

(a) that a licensee or a director of a corporation that is a licensee made a statement in or in connection with—

(i) the application for the grant of the license; or

(ii) a statement referred to in section 145K (3) (a),

that was false or misleading in a material particular;

(b) that a licensee is not a fit person to continue to be the holder of the license;

(c) that a director of a corporation that is a licensee would not, if he were the holder of a license, be a fit person to continue to be the holder of the license;

(d) that a corporation, being a licensee, is not a fit person to continue to be the holder of the license;

(e) that a person appointed by a licensee to be the person in charge at the place of business in respect of which the license is issued would not, if he were the holder of a license, be or, as the case may be, continue to be, a fit person to be the holder of a license;

(f) that a licensee has failed to comply with the provisions of section 145L (1);

(g)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (g) that the business of a licensee as a private employment agent has not been or is not being properly conducted;
- (h) that the premises in which the business of a licensee is being carried on are not, or have ceased to be, reasonably suitable for carrying on the business of a private employment agent; or
- (i) that a licensee has been convicted of an offence against this Division.

(3) Where he proposes to cancel a license the Under Secretary shall, except where—

- (a) a request has been made by the licensee or all of the joint licensees for the cancellation; or
- (b) the Under Secretary is satisfied—
  - (i) that the licensee, not being a corporation, has died;
  - (ii) that a partnership being carried on by joint licensees has been dissolved; or
  - (iii) that the licensee, being a corporation, has been wound up,

give the licensee a notice in writing setting forth the reasons for the proposed cancellation and requiring the licensee, within such period as is specified in the notice, to show cause why the license should not be cancelled.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(4) Where upon the expiration of the period specified in any notice given pursuant to subsection (3), or of such further period as the Under Secretary may allow, the Under Secretary cancels a license he shall cause a notice of cancellation to be served on the licensee by sending the notice by certified mail addressed to the licensee at the place of business in respect of which the license was granted, or by causing it to be delivered to the licensee personally.

(5) In the case of a license issued to joint licensees it is a sufficient compliance with subsection (4) if the notice of cancellation is served on any one of the joint licensees.

(6) A notice of cancellation shall state the reasons for the cancellation of the license.

(7) Subject to subsection (8), the cancellation of a license takes effect upon the expiration of the day that is twenty-one days after the day on which the notice of cancellation is served.

(8) Where a licensee appeals under section 145N against the cancellation of the license, the cancellation shall have effect—

- (a) only if the industrial magistrate hearing the appeal confirms the cancellation or if the appeal is withdrawn; and
- (b) on the day on which the industrial magistrate confirms the cancellation, or such later day as the industrial magistrate orders or, if the appeal is withdrawn, on the day on which it is withdrawn.

(9)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(9) The day on which a notice of cancellation is served is—

- (a) where the notice is sent by certified mail, the day when the notice would be delivered in the ordinary course of post; or
- (b) where the notice is delivered to the licensee personally, the day when it is so delivered.

(10) A person who was the holder of a license and who, upon the cancellation of the license taking effect, fails to forthwith deliver the license to the Under Secretary is guilty of an offence and liable to a penalty not exceeding \$200.

(11) A person who was a joint licensee is not guilty of an offence referred to in subsection (10) if another of the persons who were joint licensees delivers the license to the Under Secretary.

145N. (1) In subsection (5), "day of service" Appeals.  
means—

- (a) in the case of an appeal against a refusal to grant a license, the day of service of the notice of refusal; and
- (b) in the case of an appeal against a cancellation of a license, the day of service of the notice of cancellation.

(2) An applicant for the grant of a license may appeal to an industrial magistrate against the refusal of the Under Secretary to grant the license.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A licensee may appeal to an industrial magistrate against the cancellation by the Under Secretary of the license.

(4) Where an application for the grant of a license made by more than one person is refused or a license held by more than one person is cancelled, an appeal under this section against the refusal or cancellation may be made by any of the applicants or licensees, as the case may be, on behalf of all of the applicants or licensees, or by all of the applicants or licensees jointly, but not otherwise.

(5) Notice of an appeal under this section, specifying the grounds of appeal, shall be lodged with the registrar not later than twenty-one days after the day of service.

(6) The registrar shall give notice of the time and place of the hearing of an appeal under this section to the Under Secretary and to the person or persons appealing and shall state in the notice to the Under Secretary the grounds of the appeal.

(7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (6) or the failure to give any such notice if the industrial magistrate is satisfied that any person appealing and the Under Secretary had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by failure to give any such notice.

(8)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(8) Where relevant, a report furnished pursuant to section 145G (1) to the Under Secretary by the Commissioner of Police and certified by the Under Secretary to have been so furnished shall be received in proceedings before an industrial magistrate under this section as evidence of the contents of the report.

(9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm or disallow the refusal or cancellation appealed against.

(10) Where a license is refused or cancelled on the ground that a person named in the application, or the licensee, as the case may be, is not a fit person to be, or continue to be, the holder of a license, the industrial magistrate hearing and determining the appeal shall determine whether or not that person or licensee is a fit person to be, or continue to be, the holder of a license.

(11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person or persons appealing and on the Under Secretary, who shall take such steps as may be necessary to give effect to the decision.

(12) Subject to this section, where regulations are made relating to the institution, hearing and determination of an appeal under this section, any such appeal shall be instituted, heard and determined in accordance with those regulations.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Registers  
to be kept.

145O. (1) The Under Secretary shall keep a register, in such form as he determines, of licenses issued under this Division and shall record therein in respect of each license—

- (a) the matters which under section 145J are required to be specified in the license;
- (b) particulars of any fees paid, or due but not paid, in respect of the license under section 145K (3) (b);
- (c) particulars of any amendment of the license made pursuant to section 145L (3) (b);
- (d) particulars of any cancellation of the license under section 145K (3), 145L (3) (a) or 145M; and
- (e) such other matters as may be prescribed.

(2) The Under Secretary shall keep a register, in such form as he determines, containing—

- (a) particulars of the name of each licensee who has been specified in an instrument referred to in section 145E (3) (b) as the person in charge at the place of business nominated in that instrument and particulars of the name of each person who has been appointed in accordance with section 145E (4);
- (b) particulars of each place of business so nominated and each place of business to which such an appointment relates;

(c)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (c) particulars of the date on which a nomination under section 145E (3) (b) and an appointment under section 145E (4) takes effect or ceases to have effect, as the case may require;
- (d) if he causes a notice of cancellation to be served on a licensee on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license, a note to that effect; and
- (e) particulars of the result of any appeal against the cancellation of a license on the ground that the licensee or a person so appointed is not a fit person to be, or continue to be, the holder of a license.

(3) The Under Secretary may make such alterations in the registers referred to in subsections (1) and (2) as are necessary to ensure that the matters recorded therein in respect of any license or person are accurate.

(4) A certificate purporting to be signed by the Under Secretary certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1) or (2) did or did not appear in the registers referred to in those subsections shall, in all courts and upon all occasions, without proof of the signature of the Under Secretary and without the production of any record or document upon which the certificate is founded, be evidence of the particulars certified in and by the certificate.



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Performance  
of Under  
Secretary's  
functions.

145P. Anything authorised or required by or under this Division to be done by, lodged with or paid to the Under Secretary may be done by, lodged with or paid to any officer of the Department of Labour and Industry who is authorised generally or specially in that behalf in writing by the Under Secretary, and anything purporting to have been done by, lodged with or paid to an officer so authorised shall be deemed to have been done by, lodged with or paid to the Under Secretary.

Prescribed  
amount not  
to be  
exceeded.

145Q. (1) The holder of a license referred to in section 145I (1) (a) who, in respect of the carrying on by him of any of the functions of a private employment agent, directly or indirectly demands or receives from a person seeking work or seeking to be employed, pursuant to a contract of employment or otherwise—

- (a) an amount by way of a fee, charge or remuneration that is greater than the prescribed amount; or
- (b) a reward or consideration in addition to or instead of any amount that he may lawfully so demand or receive,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) The prescribed amount referred to in subsection (1) may be—

- (a) a monetary amount; or
- (b) a percentage of the salary, wage or remuneration payable to a person in respect of that person's employment during such period as is prescribed.

(3)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(3) A regulation may be made requiring a licensee who has arranged for the employment of a person, at the option of the employee—

- (a) to refund any amount paid to the licensee in consideration of that arrangement; or
- (b) to find alternative employment for that person,

if the employment is terminated, in the circumstances specified in the regulation, before the expiration of two weeks or, where the employment was arranged for a period of less than two weeks, before the expiration of that period.

(4) A regulation made for the purposes of subsection (2) or (3) may be made so as to apply differently according to such factors as are specified in the regulation.

145R. (1) A licensee who—

Offences  
by  
licensees.

- (a) fails to keep a register or registers, in such form as is approved by the Under Secretary, containing particulars of the name and address of every person who applies to him for employment and of every person who applies to him for labour and the nature of the employment or labour required or to retain a register so kept for a period of twelve months after the making of the last entry therein;
- (b) fails to keep a register, in such form as is approved by the Under Secretary, containing particulars of all engagements made by

or



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

or through the licensee, of any fee, charge or remuneration received in respect of any such engagement and of the name of the person from whom any such fee, charge or remuneration was received or to retain any such register for a period of twelve months after the making of the last entry therein;

- (c) fails to retain the originals of all letters received by the licensee in connection with his business as a private employment agent for the period of twelve months after their receipt;
- (d) fails to permit the Under Secretary or an officer authorised by him, at any reasonable hour, to inspect the registers referred to in paragraphs (a) and (b) and the letters referred to in paragraph (c);
- (e) fails to inform a person who applies to him for employment of the prescribed amount, if any, that may be payable by that person;
- (f) where the Under Secretary, by notice in writing served in the manner specified in section 145M (4), requires that licensee to furnish him, within such time as is, or at such times as are, specified in the notice, with information in writing relating to all or any of the particulars contained in the register referred to in paragraph (b), fails to furnish that information within the time or at any of the times so specified;
- (g) except when the license issued to him has been surrendered to the Under Secretary in accordance with this Division, fails to display the license in a conspicuous position in the premises to which it relates;
- (h)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (h) makes any false entry in a register referred to in paragraph (a) or (b);
- (i) advertises or causes to be advertised, or publishes or causes to be published, any matter that, by its tenor, suggests, implies or infers that the matter is not advertised or published by or on behalf of a private employment agent; or
- (j) advertises or causes to be advertised a position as being available when no such position exists,

is guilty of an offence and liable to a penalty not exceeding \$500.

(2) Where a corporation commits an offence under this Part and the offence is proved to have been committed with the consent or approval of a director, secretary or manager of the corporation, that director, secretary or manager is also guilty of that offence and liable to the penalty provided in respect of that offence.

- (p) by inserting before section 146 the following heading :—

Part XIV,  
Division 3:  
Heading.

**DIVISION 3.—***General provisions for the purposes of Part XIV.*

- (q) (i) by inserting in section 146 after the word "license" where firstly occurring the words "under this Part";
- (ii) by inserting in section 146 after the word "hold" the word "such";

Sec. 146.  
(Where license cancelled holder not qualified to obtain license.)

(r)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

Sec. 147.  
(Production  
of license.)

- (r) by inserting in section 147 after the word "licensee" the words "under this Part";

Sec. 148.  
(Loss or  
destruction  
of license.)

- (s) by omitting from section 148 the words ", and on the payment of ten cents, the Minister may, at the request" and by inserting instead the following words :—

under this Part—

- (a) where the license is a license issued under Division 2, the Minister; and

- (b) where the license is a license issued under Division 2A, the Under Secretary,

may, at the request;

Part XIV,  
Division 3:  
Heading.

- (t) by omitting the heading before section 149;

Sec. 149.  
(Offences.)

- (u) by omitting from section 149 the words "this Part of this Act" and by inserting instead the matter "Division 2";

Sec. 150.  
(Penalty  
for con-  
travention  
of Act.)

- (v) by omitting from section 150 the words "of this Act" wherever occurring;

Sec. 151.  
(Who may  
take pro-  
ceedings.)

- (w) (i) by omitting from section 151 the words "of this Act";

- (ii) by omitting from section 151 the words "by any" and by inserting instead the words "only by a";

(x)



*Industrial Arbitration (Employment Agencies) Amendment.*

- (x) by inserting in section 152 after the word “pre-  
scribed” the words “for the purposes of Division 2”; Sec. 152.  
(Copy of  
entries in  
registers  
to be  
evidence.)
- (y) by omitting from section 153 the words “of this Act”  
wherever occurring. Sec. 153.  
(Regula-  
tions.)

5. (1) A license, not being a license to open or carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act and in force immediately before the commencement of section 4 shall, upon that commencement, be deemed to be a license referred to in section 145I (1) (a) of that Act, as amended by section 4, that—

Transitional  
and saving  
provisions.

- (a) is issued to the person named in the license;
- (b) is issued in respect of the place of business specified in the license or, where the business is being conducted at some other place and the Minister or the Under Secretary of the Department of Labour and Industry has been notified thereof in writing, the place of business so notified; and
- (c) subject to subsection (4), continues in force until it is cancelled under section 145K (3), 145L (3) (a) or 145M of that Act, as so amended.

(2) Where, immediately before the commencement of section 4, an application made under the provisions of section 138 of the Principal Act has not been determined, that application shall be determined as if this Act had not been enacted.

(3) Subsection (1) applies to and in respect of a license granted pursuant to an application referred to in subsection (2) in the same way as it applies to a license in force immediately before the commencement of section 4.

(4)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(4) Where the holder of a license referred to in subsection (1) or (3) surrenders the license held by him that, by subsection (1), is deemed to be a license referred to in section 145i (1) (a) of the Principal Act, as amended by section 4, the Under Secretary of the Department of Labour and Industry may, if that license is still in force—

- (a) unless that person makes the request referred to in paragraph (b), without fee issue to that person a license referred to in section 145i (1) (a) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license; or
- (b) where that person so requests, without fee issue to that person a license referred to in section 145i (1) (b) of the Principal Act, as amended by section 4, in the prescribed form in which is specified as the day of issue of the license, the date referred to in section 137 (2) of that Act as the date of the license,

and upon the issue of any such license the provisions of subsection (1) cease to have effect in relation to the surrendered license.

(5) Where a license, not being a license to open or carry on a theatrical agency, referred to in section 137 (1) (a) of the Principal Act, as amended by section 4, specifies the names of more than one person those persons shall, upon the operation of subsection (1), be deemed to be joint licensees under Division 2A of Part XIV of the Principal Act, as amended by section 4.

(6)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

(6) Where before the commencement of section 4 the Under Secretary of the Department of Labour and Industry was notified in writing of the name of a person who is to have, or has, the management of the business of a private employment agent carried on at a specified place the licensee carrying on that business shall, subject to section 145E (7) and (8) of the Principal Act, as amended by section 4, be deemed—

- (a) where the person to whom the notification relates is not the licensee or one of a number of joint licensees—to have appointed that person under section 145E (4) of that Act, as so amended, to be the person in charge at that place of business; or
- (b) where the person to whom the notification relates is the licensee or one of a number of joint licensees—to have nominated that place of business under section 145E (3) of that Act, as so amended, as the place of business at which he is the person in charge.

(7) A reference in subsection (6) to a notification is, where there was more than one such notification, a reference to the later or latest such notification.

(8) A person who, immediately before the commencement of section 4, is the holder of a license, not being a license to open or carry on a theatrical agency, issued under the Principal Act—

- (a) who fails to retain for the period of six months following that commencement the originals of all letters received by him in connection with his business as a private employment agent during the period of six months that immediately preceded that commencement;

(b)



---

*Industrial Arbitration (Employment Agencies) Amendment.*

---

- (b) who has in his possession or under his control any registers referred to in section 139 of the Principal Act and who fails, after that commencement, to retain those registers for the period of twelve months following that commencement; or
- (c) who fails to permit the Under Secretary of the Department of Labour and Industry or an officer authorised by him to inspect the letters referred to in paragraph (a) and the registers referred to in paragraph (b),

is guilty of an offence and liable to a penalty not exceeding \$500.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

Government House,  
Sydney, 23rd December, 1975.







