



ST. CHRISTOPHER AND NEVIS

CHAPTER 6.05

RECRUITING OF WORKERS ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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CHAPTER 6.05

RECRUITING OF WORKERS ACT

AN ACT TO PROVIDE FOR THE RECRUITMENT OF WORKERS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Recruiting of Workers Act.

Interpretation.

2. (1) In this Act—

“Convention” means the Convention concerning the regulation of certain special systems of recruiting workers adopted by the International Labour Conference in June, 1936;

“licensing officer” means the person appointed by the Minister to be licensing officer for the purposes of this Act;

(Amended by Act 6 of 1976)

“licensee” means the holder of a licence under this Act;

“worker” means a person who is intended to be employed in work of any kind, whether manual or clerical and whether within or without the State;

“worker-recruiter” means a person who, being employed as a worker, is authorised in writing, by his or her employer, to recruit other workers on behalf of his or her employer, but who does not receive any remuneration or other advantage for such recruiting.

(2) A person recruits, within the meaning of this Act, who by himself or herself or through others, procures, engages, hires or supplies or undertakes or attempts to procure, engage, hire, or supply workers for the purpose of being employed by himself or herself or by any other person, so long as such worker does not spontaneously offer his or her services at the place of employment or at a public emigration or employment office or at an office conducted by an employers’ organisation and supervised by the Government of the State.

Application.

3. The provisions of this Act shall not apply to the recruitment of workers for any foreign country or place which, before the coming into operation of this Act, has been declared by the Minister under section 3 of the Emigrants Protection Act.

(Amended by Act 6 of 1976)

Exemptions.

4. The provisions of this Act shall not, unless the recruiting is done by professional recruiting agents, apply to—

- (a) the recruiting of workers by or on behalf of employers who do not employ more than ten workers;
- (b) the recruiting of workers in the State for employment within the State;
or
- (c) the recruiting of personal or domestic servants or non-manual workers.

Persons who recruit to be licensed.

5. (1) Subject to the provisions of subsection (7), no person shall recruit workers unless he or she is licensed in that behalf under the provisions of this Act.

(2) Every person desirous of obtaining a licence under this section shall apply to the licensing officer who may in his or her discretion issue a licence—

- (a) if he or she is satisfied that the applicant is a fit and proper person to be granted a licence;
- (b) if the prescribed security has been furnished; and
- (c) if he or she is satisfied that adequate provision has been made for safeguarding the health and welfare of the workers to be recruited.

(3) A licence shall be subject to such conditions as shall be prescribed, and shall not be transferable.

(4) No licence shall be issued for a period exceeding one year, but it may be renewed if the licensing officer is satisfied that the conditions on which it was granted have been complied with.

(5) The licensing officer may cancel any licence in any case where the licensee has been convicted of an offence under this Act or any regulations made thereunder or has not complied with the conditions under which it was granted or is guilty of conduct which, in the opinion of the licensing officer, renders him or her no longer a fit and proper person to hold a licence, and the licensing officer may suspend any licence pending the decision of the Court or the making of any inquiry which he or she shall consider necessary.

(6) Any person aggrieved by any decision of the licensing officer under this section may appeal to the Minister.

(Amended by Act 6 of 1976)

(7) The provisions of this section shall not apply to worker-recruiters.

Non-adults not to be recruited.

6. Persons under the age of eighteen years shall not be recruited:

Provided that the Minister may by regulation permit persons under that age, but of or above the age of sixteen years, to be recruited, with the consent of their parents or guardians, for employment upon light work subject to such conditions as he or she may prescribe.

Examination of workers.

7. (1) Recruited workers shall—

- (a) be medically examined; and
- (b) be brought before a Magistrate or Justice of the Peace,

in accordance with regulations made under this Act.

(2) The Magistrate or Justice of the Peace before whom any recruited worker is brought shall satisfy himself or herself that the provisions of this Act and any regulations made thereunder have been observed, and that the worker has not been subjected to pressure or recruited by misrepresentation or mistake.

Expenses of workers.

8. The expenses of the journey of recruited workers and their families to the place of employment including all expenses incurred for their protection during the journey, shall be borne, and necessities for the journey shall be provided, by the recruiter (not being a worker-recruiter) or employer in accordance with regulations made under this Act.

Return of workers to their homes.

9. A recruited worker who—

- (a) becomes incapacitated by sickness or accident during the journey to his or her place of employment;
- (b) is found on medical examination to be unfit for employment;
- (c) is not engaged, after being recruited, for a reason for which he or she is not responsible; or
- (d) is found by a Magistrate or Justice of the Peace to have been recruited by pressure or by misrepresentation or mistake,

and the family of such recruited worker, and the family of a recruited worker who dies during the journey to the place of employment, shall be returned to their homes at the expense of the recruiter or employer in accordance with regulations made under this Act.

Worker-recruiters.

10. The provisions of this Act and any regulations made thereunder shall, unless otherwise expressly provided, apply to worker-recruiters as if they were licensees:

Provided that worker-recruiters shall recruit only in such areas as may be prescribed and shall not make advances of wages to recruited workers.

Offences.

11. Any person who acts in contravention of, or fails to comply with, any of the provisions of this Act or any regulations made thereunder, commits an offence, and shall be liable, on summary conviction, to a fine not exceeding one thousand five hundred dollars or to imprisonment for a term not exceeding three months or both.

(Amended by Acts 7 of 1976 and 9 of 1986)

Power to make Regulations.

12. The Minister may make regulations not inconsistent with this Act for the purpose of giving effect thereto, or to any of the provisions of the Convention, and without prejudice to the generality of the foregoing power, he or she may by regulation provide for—

- (a) the manner and form in which application shall be made for licences, the particulars to be furnished upon every such application, the conditions under which any licence may be issued, the form of licences, the fees payable therefor, and the particulars to be set forth therein;
- (b) the security to be furnished by applicants for licences;
- (c) the records to be kept by licensees;

- (d) the restriction of recruiting to certain areas;
- (e) the supervision of worker-recruiters;
- (f) the documents to be given to the recruited worker by the licensee;
- (g) the provision of transport for recruited workers and their families from the place of recruitment to the place of employment;
- (h) the amount of wages which may be paid in advance to recruited workers, and the conditions under which advances of wages may be made;
- (i) anything which by this Act is to be prescribed, or as to which regulations are to be made.

(Amended by Act 6 of 1976)

SCHEDULE
RECRUITING OF WORKERS REGULATIONS

Short title.

1. These Regulations may be cited as the Recruiting of Workers Regulations.

Interpretation.

2. In these Regulations—

“Act” means the Recruiting of Workers Act, Cap. 6.05;

“licence” means a licence to recruit workers issued under the Act.

Application for Licence.

3. Every application for a licence shall be in the form set out in Schedule 1 to these Regulations and shall be made to the Licensing Officer.

Form of Licence.

4. Every licence shall be in the form set out in Schedule 2 to these Regulations and the fee for the same shall be \$9.60.

Condition under which Licence Granted.

5. A licensee shall not demand or accept payment in any form from any worker in return for finding him or her employment.

Licensee’s Assistants to obtain a Permit.

6. (1) No person shall assist a licensee in a subordinate capacity in the actual recruiting operations unless he or she has been approved in writing by the Licensing Officer on the written application of the licensee.

- (2) Licensees shall be responsible for the proper conduct of such assistants.

Security.

7. (1) The Licensing Officer shall not issue a licence until the applicant has deposited with him or her as security such sum of money as the Licensing Officer shall consider reasonably sufficient to cover the cost of repatriating the number of persons to be recruited as specified in the application for such licence or has furnished a guarantee for the repatriation of the same:

Provided that if the Licensing Officer is satisfied, that suitable safeguards in respect of repatriation have been taken by the appropriate authority of the country or place to which the workers are proceeding, he or she may dispense with the furnishing of the security or guarantee.

- (2) If the applicant is dissatisfied as to the amount of security fixed by the Licensing Officer he or she may, within seven days after the fixing of the amount of such security, appeal to the Minister, whose decision shall be final.

- (3) Every sum of money deposited with the Licensing Officer as security under the provisions of paragraph (1) of this regulation shall be paid into a separate deposit account in the Government Savings Bank, and shall be refunded together with any interest due thereon to the licensee who furnished same upon the Licensing Officer being satisfied that the workers in respect of whom such security was

deposited have been repatriated, or have been offered repatriation, or have forfeited their claim to be repatriated by the licensee.

Fees to be Paid into Treasury.

8. All fees collected by the Licensing Officer under the provisions of regulation 4 of these Regulations shall be paid into the Treasury of the State in aid of the general revenue.

Contract.

9. (1) Every person recruited by the licensee shall enter into a contract of service with the licensee in the form set out in Schedule 3 to these Regulations or in such other form as the Licensing Officer may approve.

(2) Every such contract shall be executed before a Magistrate or a Justice of the Peace.

(3) Every such contract shall be executed in triplicate originals, one of which shall be kept by the licensee, one by the person recruited and the other shall be delivered to the Licensing Officer by the licensee.

Licenses to Furnish Returns.

10. (1) Every licensee shall furnish the Licensing Officer—

(a) prior to the examination by a Magistrate or Justice of the Peace as required by section 7 (2) of the Act of any prospective emigrant recruited by him or her with a return in the form set out in Schedule 4 to these Regulations of all such emigrants and their dependants;

(b) prior to the embarkation of any such emigrants with a copy of the medical certificate relating to each such emigrant.

(2) The Licensing Officer shall enter and keep in a Register particulars of the matters set out in every return furnished in accordance with the requirements of paragraph (1) (a) of this regulation.

Medical Examination—Expenses of.

11. The expenses of the medical examination required by subsection (1) of section 7 of the Act shall be borne by the licensee.

Transport to be Provided.

12. (1) The licensee shall provide suitable transport to the place of employment for recruited workers.

(2) All arrangements for transporting recruited workers to the place of employment shall be subject to the approval of the Licensing Officer.

Grant of Permit.

13. (1) After the contract has been signed before the Magistrate or Justice of the Peace, the licensee shall cause the recruited worker to attend with him or her before the Licensing Officer who shall issue a permit in favour of the worker in the form set out in Schedule 5 to these Regulations, which permit the licensee shall, on the embarkation of the worker, cause to be delivered to the shipping agent of the ship, vessel or craft for transmission to the Licensing Officer.

(2) The licensee shall also forward to the Licensing Officer a certificate as to the number of recruited workers who have actually sailed from the State on the particular ship, vessel or craft and their destination together with a list of the names of such persons.

Wages—Advance of.

14. The details of any advance of wages made to a recruited worker shall be endorsed on the contract, and conditions under which the advance of wages is made, shall be signed (or initialled) by the Magistrate or Justice of Peace witnessing the contract.

SCHEDULE 1 TO THE REGULATIONS

(Regulation 3)

APPLICATION FORM

.....20.....

SAINT CHRISTOPHER AND NEVIS

I,..... hereby make application for a licence issuable under the Recruiting of Workers Act, and the regulations thereunder, to recruit workers for employment outside the State.

Name of applicant

Address

Name and address of organisation for whom workers are to be recruited

.....

Place of employment of recruited workers

Approximate numbers and categories of workers required

.....

.....

Applicant

SCHEDULE 2 TO THE REGULATIONS

(Regulation 4)

LICENCE

Licence No.

SAINT CHRISTOPHER AND NEVIS.

..... of
is hereby licensed to recruit workers in accordance with the provisions of the Recruiting of Workers Act, and regulations thereunder.

2. This licence expires on the day of 20

Dated the day of 20

.....

Licensing Officer.

SCHEDULE 3 TO THE REGULATIONS

(Regulation 9)

FORM OF CONTRACT

THIS AGREEMENT is made the day of20

BETWEEN of (if acting as agent state for whom acting) who has been duly licensed under the provisions of the Recruiting of Workers Act, (hereinafter called "the Licensee") of the ONE PART and of in the State of (hereinafter called "the Worker"), of the OTHER PART.

WHEREBY IT IS AGREED as follows:

1. The Licensee will employ the Worker and the Worker will serve the Licensee for a period of years such period to be computed from the date of sailing of the Worker from and upon and subject to the terms and conditions hereinafter mentioned. On the termination of the said period this contract of service may, by mutual consent, be extended for a further period of the Worker thus serving the Licensee for an uninterrupted period of years.

2. The Worker will proceed to by such schooner or steamship facilities as may be provided by the Licensee for the purpose, when and as the Licensee shall direct, and conform to such Labour Regulations as may be in force on his or her arrival at and applicable to his or her case a copy whereof shall be made available to him or her by the Licensee before his or her departure from the State of and which said Regulations are hereby declared to be binding on both parties to this Agreement.

3. The Licensee shall pay to the Worker as wages during the continuance of his or her employment hereunder such sum per hour, for such period and subject to the premiums and stipulations specified in the First Schedule to this Agreement. All payments to the Worker hereunder shall be made fortnightly.

4. The Licensee will grant to the Worker during the continuance of the contract of service leave of absence for the periods, in the manner and subject to the terms, conditions and stipulations as to transportation and otherwise, as is specified in the Second Schedule to this Agreement.

5. The Licensee will see to it that the Worker obtains a valid certificate of nationality with photograph, a certificate of good moral conduct, and any other papers required for his or her admittance to In case of the loss of any of the said documents after they have been handed to the Worker he or she shall bear solely the risk and consequences attendant on such loss.

6. The Licensee will not be responsible for any consequences arising out of the non-admittance of the Worker to in the event that such non-admittance is the result of his or her having been expelled from on an earlier occasion and of which fact he or she did not notify the Licensee before entering into this contract of service.

7. The Licensee will provide for the Worker at the Licensee's cost passage by schooner or steamship and in the class indicated by the Licensee.

8. The Licensee will upon the determination of the Worker's employment hereunder, whether by lapse of time or otherwise, grant to the Worker free return passage to for himself or herself and his or her lawful family in the manner and subject to the terms and stipulations specified in the Third Schedule to this Agreement.

9. The Licensee may grant to the Worker free lodging accommodation in which case the Worker shall reside in the quarters allotted to him or her by the Licensee.

10. The sum of shall be deducted weekly from the weekly wages accruing to the Worker during the continuance of his or her employment hereunder to form a The amount so deducted shall upon determination of the Worker's employment hereunder be refunded to him or her less such deductions as may be deductible therefrom as specified in the Third Schedule to this Agreement or in the Labour Regulations mentioned in clause 2 hereof.

11. Any actions, suits, claims and demands which may arise under or by virtue of this Agreement shall be dealt with exclusively by the Courts and these presents shall in all respects be read and construed according to the laws of

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first above written.

Signed by the said
.....

before and in the presence of:

.....

Licensee

Signed by the said

.....

before and in the presence of :

.....

.....

Worker

THE FIRST SCHEDULE ABOVE REFERRED TO.

(Wages to be paid to Worker and the terms and conditions attached thereto.)

THE SECOND SCHEDULE ABOVE REFERRED TO.

(Leave of absence to be granted to Worker and the terms and conditions attached thereto.)

THE THIRD SCHEDULE ABOVE REFERRED TO.

(Return passage to Worker and his or her lawful family and the terms and conditions attached thereto.)

SCHEDULE 4 TO THE REGULATIONS

(Regulation 10(1)(a))

RETURN OF PROSPECTIVE EMIGRANTS

Serial No.	Surname	Christian Names	Address	Sex	Age	Next of Kin and Address	Location of work	Period of engagement	Nature of work	Rate of wages	Proposed date of departure

Date 20

(Sgd.)

Licensee

SCHEDULE 5 TO THE REGULATIONS

(Regulation 13)

Permission is hereby granted to
of, a recruited worker to proceed
to, under the terms and conditions provided in the Recruiting
of Workers Act, and Regulations thereunder.

2. This permit shall be in force for one month from the date of issue.

Dated this day of, 20

.....

Licensing Officer
