

Namibia

Employment Services Act, 2011

Employment Service Regulations, 2013

Government Notice 62 of 2013

Legislation as at 15 November 2017

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Employment Service Regulations, 2013

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Republic of Namibia
Annotated Statutes

Employment Services Act, 2011

Employment Service Regulations, 2013
Government Notice 62 of 2013

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[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for Namibia.]

[The format of these regulations has been altered to harmonise with the usual style.]

1. Definitions

In these regulations any word or expression to which a meaning has been given in the Act has the same meaning and, unless the context otherwise indicates-

“**the Act**” means the Employment Service Act, 2011 (Act [No. 8 of 2011](#)).

2. Application for licence

- (1) An application for a licence in terms of section 20(1) of the Act-
 - (a) must be made on Form ESA 1 set out in the Annexure; and
 - (b) must be accompanied by a non-refundable application fee of N\$50.
- (2) An applicant for a licence must submit along with its application a valid business registration certificate issued in terms of the Companies Act, 2004 (Act [No. 28 of 2004](#)).

3. Issue of licence

- (1) The Director must issue a decision to approve or refuse the application in terms of section 20(3) of the Act on Form ESA 2 as set out in the Annexure.
- (2) The fee for the issuance of the licence in terms of section 21(1) of the Act is N\$200.
- (3) The licence fee must be paid by certified cheque or cash.

- (4) The Director must issue the licence on Form ESA 3 as set out in the Annexure, after the Director has approved and received the licence fee.

4. Validity of licence

A licence issued under section 21(1) of the Act is valid for two years from the date of issuance and is renewable.

5. Renewal of licence

- (1) An application for the renewal of a licence must be submitted to the Director on Form ESA 1 set out in the Annexure at least three months before the expiry of the licence.
- (2) The fee for the issuance of a renewal of the licence is N\$200.
- (3) The Director must decide the application for renewal and communicate the decision to the applicant before the expiry of the existing licence.
- (4) In the event that a private employment agency applies for a renewal of its licence at least three months prior its expiration, the licence remains valid until the Director decides on the application.

6. Obligation to notify changes

A licence-holder must inform the Director of any changes in the information provided in the initial application, or application for renewal, within 30 days of the change in circumstances which the decision to issue or to renew the licence was based.

7. Requirements for commencing operation

- (1) After a licence is granted, a licensee may not commence operations until it fulfills the following requirements:
 - (a) the applicant must possess a fixed telephone number;
 - (b) the applicant must possess a business bank account; and
 - (c) the applicant must maintain a fixed non-residential business address.
- (2) The licensee must notify the Director on Form ESA 4 set out in the Annexure, of its compliance with the requirements of subregulation (1) within seven days after it started operations.

8. Records and returns

- (1) A private employment agency must keep records of-
 - (a) the name, address, e-mail address and telephone number of each user enterprise or person to whom the private employment agency refers individuals for employment; and
 - (b) the name, address and telephone number of each person whom it referred to a user enterprise or individual and whether that person was employed after referral.
 - (c) The records must-
 - (i) be in English language;
[The word “the” should appear before the phrase “English language”.]
 - (ii) be kept at the employment agency’s principal place of business; and
 - (iii) be retained by the private employment agency for five years.

- (2) Every private employment agency must submit to the Director annual returns containing the following:
 - (a) the names, address, telephone, fax and email address of each enterprise to whom the private employment agency referred persons for employment during the past year; and
 - (b) the number of job seekers referred to each enterprise, occupation or position for which each person was referred and the number of such persons hired after referral, by sex, job category and age range.

[The word “and” is repeated in the closing phrase of paragraph (b).]

- (3) A licensee is obliged to produce its licence or records for inspection at the request of an employment officer appointed in terms of the Act.
- (4) Any person who contravenes or fails to comply with this regulation commits an offence and is liable on conviction to a fine not exceeding N\$5 000 or to imprisonment not exceeding six months or to both such fine and such imprisonment.

9. Cancellation of licence

- (1) A notification of intention to cancel a licence in terms of section 22 (2) of the Act must be on Form ESA 5 set out in the Annexure.
- (2) A notice of cancellation of a licence made in terms of section 22(1) of the Act, must be on Form ESA 6 set out in the Annexure.
- (3) The requirements set forth in regulations 6-8 constitute requirements in terms of section 22(1) of the Act, that constitute grounds for cancellation of a licence.

10. Exemptions from Part 4 of Act

- (1) An application to the Minister in terms of section 28(1) of the Act for exemption from Part 4 of the Act must be made on Form ESA 7 set out in the Annexure.
- (2) The decision of the Minister in terms of section 28 of the Act-
 - (a) to grant an exemption must be issued on Form ESA 8 set out in the Annexure and must be signed by the Minister; and
 - (b) to refuse an application for exemption must be issued on Form ESA 8 set out in the Annexure.

11. Issuance of receipts

An employment officers, upon seizing documents in terms of section 30(6) of the Act, must issue a receipt on Form ESA 9 set out in the Annexure.

Annexures

Forms

[The regulations elsewhere refer to a single annexure containing multiple forms.]

[Editorial note: The forms have not been reproduced]