



Province of Alberta

## FAIR TRADING ACT

# EMPLOYMENT AGENCY BUSINESS LICENSING REGULATION

### **Alberta Regulation 45/2012**

With amendments up to and including Alberta Regulation 166/2017

### Office Consolidation

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(Consolidated up to 166/2017)

**ALBERTA REGULATION 45/2012**

**Fair Trading Act**

**EMPLOYMENT AGENCY BUSINESS  
LICENSING REGULATION**

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Schedule

**Definitions**

**1** In this Regulation,

- (a) “Act” means the *Fair Trading Act*;
- (b) “employment agency business” means the business designated as the employment agency business under the *Designation of Trades and Businesses Regulation* (AR 178/99);

- (c) “employment agency business operator” means a person who is engaged in the employment agency business, and includes any employee, representative or agent of the person;
- (d) “employment agency business service” means an activity that constitutes the employment agency business;
- (e) “licence” means an employment agency business licence
  - (i) in a class of licence established by section 2, or
  - (ii) continued by section 17;
- (f) “person seeking employment” means
  - (i) an individual for whom an employment agency business operator secures or attempts to secure employment, or
  - (ii) an individual who is evaluated or tested for skills or knowledge required for employment by an employer, where
    - (A) an employment agency business operator carries out the evaluation or testing or arranges for the evaluation or testing to be carried out, and
    - (B) the individual or the employment is in Alberta.

**Employment agency business licences**

**2(1)** The following classes of employment agency business licence are established:

- (a) national employment agency business licence;
- (b) international employment agency business licence.

**(2)** A national employment agency business licence authorizes the licensee to engage in the employment agency business with respect to

- (a) individuals in Alberta who are seeking or are being sought for employment in Alberta or another jurisdiction, or
- (b) individuals in a jurisdiction in Canada, other than Alberta, who are seeking or are being sought for employment in Alberta.

**(3)** An international employment agency business licence authorizes the licensee to engage in the employment agency

business with respect to individuals in jurisdictions outside Canada who are seeking or are being sought for employment in Alberta.

(4) A licensee may hold a licence in more than one class of licence.

(5) No licensee shall engage in the employment agency business with respect to individuals referred to in subsection (2) or (3) unless the licensee holds a licence in the class of licence authorizing the licensee to engage in the employment agency business with respect to those individuals.

#### **Licence fee**

3 The fee for a licence or to renew a licence is \$120.

#### **Term**

4 A licence expires on the last day of the 24th month after it is issued or renewed.

#### **General Licensing and Security Regulation applies**

5 The *General Licensing and Security Regulation* (AR 187/99) applies to the employment agency business.

#### **Security**

6(1) The Director may, if the Director considers it appropriate, require an applicant for a licence or the renewal of a licence to submit to the Director a security that is in a form and in an amount approved by the Director.

(2) The Director may, if the Director considers it appropriate, increase the amount of the security that is to be provided by a licensee before the term of the licence expires.

#### **Operating names**

7 A licensee shall use a name set out in its licence in carrying on or engaging in the employment agency business.

#### **List of agents**

8(1) A licensee shall submit to the Director the name of any person, whether in Alberta or a jurisdiction outside Alberta, that the licensee intends to authorize to act as the licensee's agent in the employment agency business.

(2) A licensee shall not authorize a person to act as the licensee's agent unless the person's name has been submitted to the Director under subsection (1).

### Records

**9(1)** In addition to the records required to be kept under section 132(1) of the Act and under section 9 of the *General Licensing and Security Regulation* (AR 187/99), every licensee must create and maintain the following records:

- (a) each agreement entered into with an employer that retains the licensee for the purpose of
  - (i) seeking employees, or
  - (ii) evaluating or testing individuals for skills or knowledge required for employment;
- (b) the name, phone number and postal address, and e-mail address, if any, of every employer for whom the licensee
  - (i) secures employees, or
  - (ii) evaluates or tests individuals, or arranges for individuals to be evaluated or tested, for skills or knowledge required for employment;
- (c) each agreement entered into with a person seeking employment including, without limitation, any agreement referred to in section 10(1) or 12(2)(a);
- (d) the name, phone number and postal address, and e-mail address, if any, of every individual
  - (i) for whom employment is secured, or
  - (ii) who is evaluated or tested for skills or knowledge required by an employer;
- (e) copies of all applications to governments or government agencies respecting a person seeking employment in respect of which the licensee receives any fee, reward or compensation, and copies of all decisions received from governments or government agencies in respect of those applications;
- (f) copies of all correspondence sent to or received from employers or persons seeking employment, including, without limitation, notices under section 11.

**(2)** A licensee and a former licensee shall maintain the records referred to in subsection (1) for at least 3 years after the records are created or received.

### **Agreements**

**10(1)** An employment agency business operator shall enter into an agreement that meets the requirements of subsection (3) with an individual before

- (a) securing employment for the individual, or
- (b) evaluating or testing the individual, or arranging for the individual to be evaluated or tested, for skills or knowledge required for employment, where the individual or the employment is in Alberta.

**(2)** An employment agency business operator shall enter into an agreement that meets the requirements of subsection (3) with an employer before securing an employee for the employer.

**(3)** An employment agency business operator shall ensure that any agreement entered into by the employment agency business operator in accordance with subsection (1) or (2)

- (a) is in writing and is signed by the parties to the agreement,
- (b) sets out the services that are to be provided by the employment agency business operator under the agreement,
- (c) sets out the respective responsibilities under the agreement of the employment agency business operator and the other parties to the agreement,
- (d) includes a phone number and postal address, and e-mail address, if any, for the employment agency business operator and any agent that may act on behalf of the employment agency business operator under the agreement, and
- (e) contains the statement set out in the Schedule respecting prohibited fees, in not less than 12-point bold face type.

**(4)** If the statement respecting prohibited fees referred to in subsection (3)(e) is not printed on the front of the agreement, the employment agency business operator shall ensure that a notice is printed on the front of the agreement, in not less than 12-point bold face type, indicating where in the agreement the statement respecting prohibited fees is printed.

**(5)** An employment agency business operator shall give a copy of an agreement entered into with an individual referred to in subsection (1) to the individual when the individual signs the agreement.

**Offer of employment**

**11(1)** Where an employment agency business operator communicates an offer of employment to an individual or co-ordinates or arranges the communication of an offer of employment to an individual, the employment agency business operator shall give the individual a written notice that includes the following information:

- (a) the job description;
- (b) the terms of employment, if known;
- (c) the phone number and postal address, and e-mail address, if any, of the employer.

**(2)** Subsection (1) does not apply if the employer has communicated the offer of employment directly to the individual.

**Fee prohibition**

**12(1)** No employment agency business operator shall directly or indirectly demand or collect a fee, reward or other compensation

- (a) from an individual who is seeking employment or from another person on that individual's behalf,
- (b) from an individual who is seeking information respecting employers seeking employees or from another person on that individual's behalf,
- (c) from an individual for securing or attempting to secure employment for the individual or providing the individual with information respecting any employer seeking employees or from another person on that individual's behalf, or
- (d) from an individual for evaluating or testing the individual, or for arranging for the individual to be evaluated or tested, for skills or knowledge required for employment, where the individual or the employment is in Alberta, or from another person on that individual's behalf.

**(2)** Nothing in subsection (1) prohibits an employment agency business operator from charging a fee for the provision of services to an individual that are not employment agency business services,



including, without limitation, resume-writing services and job-skills training services, if

- (a) the employment agency business operator and the person to whom the fee is charged have entered into a written agreement for the provision of the services that
  - (i) sets out the fee, and
  - (ii) is separate from any agreement between the individual to whom the services are provided and the employment agency business operator for the provision of employment agency business services to the individual,
- (b) the individual to whom the services are provided is not required to access the services in order to access the employment agency business operator's employment agency business services, and
- (c) the fee is reasonable.

**(3)** Nothing in subsection (1) prohibits an employment agency business operator from recovering the cost of services provided to an individual by a third party if

- (a) the services provided are not employment agency business services,
- (b) the individual to whom the services are provided is not required to access the services in order to access the employment agency business operator's employment agency business services,
- (c) the person from whom the employment agency business operator recovers the costs and the individual to whom the services are provided
  - (i) are advised of the cost of the services in writing, and
  - (ii) expressly consent to the provision of the services before the services are provided,
- (d) the employment agency business operator has paid the third party for the costs of the services, and
- (e) the costs recovered do not exceed the amount paid by the employment agency business operator to the third party for the services.

(4) The express consent of a person referred to in subsection (3)(c) must be in a verifiable form, such as in writing or recorded audio.

**Unfair practices**

**13(1)** For the purposes of this section and for the purposes of applying the Act in respect of this section, “consumer” includes

- (a) a person seeking employment, and
- (b) an employer who
  - (i) is an individual, and
  - (ii) is seeking an employee to provide services with respect to the individual’s personal, family or household matters.

**(2)** It is an unfair practice for an employment agency business operator to do any of the following:

- (a) exert undue pressure on or threaten or harass a consumer, a person related to a consumer or a member of a consumer’s household;
- (b) give false, misleading or deceptive information to a consumer with respect to matters relating to
  - (i) employment positions,
  - (ii) legal rights,
  - (iii) immigration, or
  - (iv) the general living or working conditions in Alberta;
- (c) fail to ensure that separate agreements are entered into with a person seeking employment for services offered by the employment agency business operator that are not employment agency business services, including, without limitation, resume-writing services and job-skills training services;
- (d) require a person seeking employment to provide a deposit, security or bond;
- (e) directly or indirectly demand or collect a fee, reward or other compensation in contravention of section 12.

**Strikes and lockouts**

**14** When a legal strike or lockout is in progress, no employment agency business operator shall knowingly

- (a) send or assist in sending any person, or
- (b) cause any person to be sent

to take employment in place of an employee who is on strike or locked out without informing the person of the existence of the strike or lockout.

**Prohibited representation**

**15(1)** An employment agency business operator shall not represent, expressly or by implication, that an employment agency business licence is an endorsement or approval of the employment agency business operator by the Government of Alberta.

**(2)** Subsection (1) does not preclude an employment agency business operator from representing that the employment agency business operator is licensed under this Regulation.

**Offences**

**16** For the purposes of section 162 of the Act, a contravention of section 2(5), 7, 8, 10, 11(1), 12(1), 13(2), 14 or 15(1) is designated as an offence.

**Transitional**

**17(1)** An employment agency business licence under the *Employment Agency Business Licensing Regulation* (AR 189/99) that is in effect immediately before the coming into force of this section is continued under this Regulation until the employment agency business licence expires or is revoked.

**(2)** Despite section 2(5), the holder of a licence referred to in subsection (1) may engage in the employment agency business with respect to individuals referred to in section 2(2) and (3) until the licence expires or is revoked.

**Consequential amendment**

**18** The *General Licensing and Security Regulation* (AR 187/99) is amended in section 12(d.1) by striking out “or” at the end of subclause (v), adding “or” at the end of subclause (vi) and adding the following after subclause (vi):

- (vii) a consumer within the meaning of section 13(1) of the *Employment Agency Business Licensing Regulation*;

**Repeal**

**19** The *Employment Agency Business Licensing Regulation* (AR 189/99) is repealed.

**20** Repealed AR 166/2017 s2.

**Coming into force**

**21** This Regulation comes into force on September 1, 2012.

**Schedule****Fee Prohibition**

Section 12 of the *Employment Agency Business Licensing Regulation* prohibits an employment agency business operator from directly or indirectly demanding or collecting a fee, reward or other compensation

- (a) from an individual who is seeking employment or from another person on that individual's behalf,
- (b) from an individual who is seeking information respecting employers seeking employees or from another person on that individual's behalf,
- (c) from an individual for securing or attempting to secure employment for the individual or providing the individual with information respecting any employer seeking employees or from another person on that individual's behalf, or
- (d) from an individual for evaluating or testing the individual, or arranging for the individual to be evaluated or tested, for skills or knowledge required for employment, where the individual or employment is in Alberta, or from another person on that individual's behalf.









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