

DEPARTMENT OF LABOUR

NO. R. 1431

28 DECEMBER 2018

EMPLOYMENT SERVICES ACT NO 4, 2014

DRAFT REGULATIONS ON THE REGISTRATION OF
PUBLIC EMPLOYMENT AGENCIES

I, Mildred Oliphant, Minister of Labour, under section 52 of the Employment Services Act, 2014 (Act No. 4 of 2014), and after consultation with the Employment Services Board, hereby publish for public comment the regulations in the Schedule.

Interested parties are invited to submit written comments on the proposed regulations within 60 days after publication notice by:-

- (a) Posting comments to: The Deputy Director General: PES
Mr S. Morotoba
Department of Labour
Private Bag X117
Pretoria
0001
- (b) Faxing comments to: The Deputy Director General: PES
Mr S. Morotoba
Department of Labour
Private Bag X117
Pretoria
0001
Fax: (012) 320-0792
- (c) Delivering comments to: Room 310
Third Floor
Laboria House Building
215 Francis Baard Street
Pretoria
- (d) E-mailing comments to: publicaregistration@labour.gov.za


M. OLIPHANT
MINISTER OF LABOUR

05/12/2018

SCHEDULE

1. Definitions.
2. Registration of Public Employment Agencies.
3. Cancellation of registration of Public Employment Agencies.
4. Procedure for lodging and considering complaints.
5. Dispute-settlement mechanism or procedure

Definitions

1. In these regulations any word or expression to which a meaning is assigned in the Act has the same meaning and unless inconsistent with the context—

“certificate of registration” means a certificate issued to a Public Employment Agency which fully satisfies the prescribed registration criteria, and is valid for a period of **three (3) years** (unless revoked) from the date of issue.

“Department” means the Department of Labour.

“public employment agency” means any government department, municipality, State owned enterprise, public entity or Constitutional institution that provides public employment services.

“public employment services” means the provision of the following services by a public employment agency:

- (a) advising or counselling of workers on career choices, either by the provision of information or other approaches;
- (b) assessment of work seekers for—
 - (i) entry or re-entry into the labour market; or
 - (ii) education and training;
- (c) referring work seekers—
 - (i) to employers to apply for vacancies; or
 - (ii) to training providers for education and training;
- (d) assisting employers by—
 - (i) providing recruitment and placement services;
 - (ii) advising employers on the availability of work seekers with skills that match their needs;
- (e) any other prescribed employment service;

“submit” means to serve by hand, registered post or telefax or to transmit by electronic mechanism with which the recipient is capable of printing the communication;

“temporary certificate of registration” means a certificate of registration valid for a period of **two (2) months** (unless revoked) from the date of issue and issued to a public employment agency for whom additional information is required in order to make a decision upon the application.

“temporary employment service” means any person who, for reward, procures for or provides to a client other persons:

- (i) who perform work for the client and

“**this Act**” means the Employment Services Act, 2014 (Act No. 4 of 2014) and its regulations;

(2) Registration of Public Employment Agencies.

- (1) These regulations apply to all Public Employment Agencies.
- (2)
 - (a) Any Public Employment Agency intending to provide public employment services shall apply on-line (www.eservices.org) to the Registrar for registration.
 - (b) No Public Employment Agency may provide public employment services without a certificate of registration issued by the Registrar.
 - (c) If a certificate has expired or has been revoked, a Public Employment Agency shall immediately cease to provide any public employment services until the certificate is renewed.
 - (d) No Public Employment Agency may operate as a Temporary Employment Service.
 - (e) The Registrar may issue a Temporary Certificate of Registration in the event that:-
 - (i) any further information is necessary in order to make a decision on a particular application.
- (3) Registration as a Public Employment Agency shall be without a charge
- (4) The application referred to in sub-regulation 2(2)(a) shall comply with the following prescribed registration criteria:
 - (a) a verifiable business address from where its public employment services shall be provided;
 - (b) compliance with all labour legislations, where relevant.
- (5) A registration certificate shall be:
 - (a) in the form prescribed in **Annexure 1 (a) or (b)**.
 - (b) valid for a period three years unless it is cancelled earlier due to the Public Employment Agency's failure to comply with the criteria for registration.
 - (c) valid for two months in the case of a temporary certificate of registration.
- (6) A registered Public Employment Agency shall apply to the Registrar to renew its registration at least sixty (60) days prior to the expiry of its existing registration certificate.

- (7) In order to enable members of the public to access the services of registered Public Employment Agencies, the Registrar shall upload the information of all registered Public Employment Agencies onto an electronic database which will be available on the Department's website.
- (8) A registered Public Employment Agency shall display its certificate of registration in a conspicuous place at the premises where it operates from and if applicable on the home page of its web site address.
- (9) No Public Employment Agency shall:
- (a) operate except in accordance with the provisions of this Act and the terms of its registration;
 - (b) allow any other person (individual or juristic) to provide public employment services on its behalf without the prior written approval of the Registrar;
 - (c) register for employment any non-citizen, unless the non-citizen has been issued with a Republic of South Africa identity document for permanent residence or granted Asylum by the Department of Home Affairs;
 - (d) directly or indirectly, divulge or provide to any person any information whatsoever regarding any client, which was acquired or requested from the client, unless with the client's written consent and where such information is required in terms of any statute;
 - (e) directly or indirectly charge a fee to any work-seeker for providing public employment services to that work seeker, inclusive of registration fees, administrative fees and fees for any other services offered by the agency to a work seeker;
 - (f) deduct any amount from the remuneration of an employee or require or permit an employee to pay any amount in respect of the placing of that employee with an employer;
 - (g) provide false public employment services information;
 - (h) provide any public employment service that it is not authorized to perform in terms of its registration certificate;
 - (i) counterfeit, alter or transfer its registration certificate;
 - (j) retain the original identity documents or original qualification certificates of work seekers;
 - (k) fail to comply with any directive issued by the Registrar within such time as stated therein;
 - (l) use the name of another person, registered entity, registered trademark or logo, as if it belongs to its own;

- (m) induce work seekers or potential employees by paying them either money or any other incentives for them to take up a work opportunity.
- (10) Where a registered Public Employment Agency:
 - (a) relocates with a consequent change to its physical address, it shall reapply to the Registrar as prescribed in sub-regulation 2(2)(a) above;
 - (b) changes its web site address, or telephonic contact details, it shall notify the Registrar by completing a prescribed Form (**Annexure 2**) within thirty (30) days of the said change.
 - (c) changes its name, it shall reapply to the Registrar as prescribed in sub-regulation 2(2)(a)
- (11) A registered Public Employment Agency shall keep, for a minimum period of three years, an electronic or manual register in the form prescribed in **Annexure 3** reflecting-
 - (a) the work seekers registered with it;
 - (b) work seekers that have been placed in employment, including the nature of employment; and
 - (c) particulars of the employer and sector where the work seeker was placed.
- (12) A registered Public Employment Agency shall not later than the 5th Fifth of each month following the Department's performance quarters (i.e. 5 July; 5 October; 5 January and 5 April of each year) submit a quarterly performance report to the Registrar in the form prescribed in **Annexure 4** reflecting:
 - (a) the work seekers registered with it;
 - (b) work seekers that have been placed in employment, including the nature of employment; and
 - (c) particulars of the employer and sectors where the work seeker was placed.

3. Cancellation of registration of Public Employment Agencies

- (1) The Registrar shall cancel the registration of a Public Employment Agency if-
 - (a) it fails to comply with any of the labour legislations, where relevant;
 - (b) the criteria for registration stipulated in sub-regulation 2(9)(a)-(m) are not complied with;
 - (c) it fails to keep the records as stipulated in sub-regulation 2(11)(a)-(c);
 - (d) it fails to display its certificate of registration in a conspicuous place at the premises where it operates and/or on the home page

- (e) it changes its physical address after receiving a registration certificate, and fail to re-apply to the Registrar for re-registration in terms of sub-regulation 2(10)(a);
- (f) it changes its web site address, or telephonic contact details after receiving a certificate of registration and fails to notify the Registrar accordingly in terms of sub-regulation 2(10)(b);
- (g) it changes its name after receiving a registration certificate, and fails to reapply to the Registrar in terms of sub-regulation 2(2)(a);
- (h) it fails to provide its quarterly performance reports to the Registrar in terms of sub-regulation 2(12)(a)-(c);
- (i) it has ceased to operate;

4. Procedure for lodging and considering complaints

- (1) Any person may lodge a written complaint to the Registrar concerning a Public Employment Agency to:

Postal Address: The Registrar: Private Employment Agencies
Department of Labour
Private Bag X117
Pretoria
0001

Physical Address: The Registrar: Private Employment Agencies
Department of Labour
Laboria House Building
215 Francis Baard Street
Pretoria

Fax Number: (012) 309 - 4751

E-mail Address: pes@labour.gov.za

- (2) The Registrar shall within 30 days of receipt of a written complaint as contemplated in sub-regulation 4(1), respond thereto in writing.

5. Dispute-settlement mechanism or procedure

- (1) Any dispute arising from the implementation of these regulations shall be dealt with in terms of the Intergovernmental Relations Framework Act, 2005 (Act No. 13, 2005).

ANNEXURE 1(a)**Date issued:****Certificate No:****Employment Services Act, 2014 (section 13)****[REGULATION 2(5)(a)]****CERTIFICATE OF REGISTRATION**

Name of Public Employment Agency:

Trading Name:

Physical address:

Postal address:

.....Postal Code:

Valid from:

Valid to:

Type of service:

.....
Registrar: Private Employment Agencies**Date:****ANNEXURE 1(b)****Date issued:****Certificate No:**

Employment Services Act, 2014 (section 13)**[REGULATION 2(5)(a)]****TEMPORARY CERTIFICATE OF REGISTRATION**

Name of Public Employment Agency:

Trading Name:

Physical address:

Postal address:

.....Postal Code:

Valid from:

Valid to:

Type of service:

.....
Registrar: Private Employment Agencies**Date:**

ANNEXURE 2**Employment Services Act, 2014 (section 13)
[REGULATION 2(10)(b)]****CHANGE OF CONTACT DETAILS****Name of Public Employment Agency:****Address:**

ATTENTION: **The Registrar: Private Employment Agencies**
 Department of Labour
 Private Bag X117
 Pretoria
 0001

	OLD	NEW
Telephone numbers		
Website address		

Name and Surname:**Designation:****Signature:****Date:**

ANNEXURE 3

EMPLOYMENT SERVICES ACT, 2014

[REGULATION 2(11)(a)-(c)]

RECORDING AND REPORTING TEMPLATE: WORK SEEKERS
REGISTERED AND PLACED

Name of Public Employment Agency:

Address:

ATTENTION: **The Registrar: Private Employment Agencies**
 Department of Labour
 Private Bag X117
 Pretoria
 0001

Reporting year:

Reporting period:

Names of work seekers registered	Gender	Disability Yes/No	Race	ID & Age	Placed: Yes/ No	Nature of placement	Particulars of employer
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							

SUMMARY:

TOTAL NUMBER OF WORK SEEKERS REGISTERED	
TOTAL NUMBER OF WORK SEEKERS PLACED	
TOTAL NUMBER OF WORK SEEKERS PLACED IN PERMANENT EMPLOYMENT	
TOTAL NUMBER OF WORK SEEKERS PLACED IN TEMPORARY EMPLOYMENT	

Name and Surname:

Designation:

Signature:

Date:

ANNEXURE 4

EMPLOYMENT SERVICES ACT, 2014
[REGULATION 2(12)(a)-(c)]RECORDING AND REPORTING TEMPLATE: WORK SEEKERS
REGISTERED AND PLACED

Name of Public Employment Agency:

.....

.....

ATTENTION: The Registrar: Private Employment Agencies
 Department of Labour
 Private Bag X117
 Pretoria
 0001

Reporting year:

Reporting period:

Names of work seekers registered	Gender	Disability Yes/No	Race	ID Age &	Placed: Yes/ No	Nature of placement	Particulars of employer
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							

SUMMARY:

TOTAL NUMBER OF WORK SEEKERS REGISTERED	
TOTAL NUMBER OF WORK SEEKERS PLACED	
TOTAL NUMBER OF WORK SEEKERS PLACED IN PERMANENT EMPLOYMENT	
TOTAL NUMBER OF WORK SEEKERS PLACED IN TEMPORARY EMPLOYMENT	

Name and Surname:

Designation:

Signature:

Date: