



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$6.80

WINDHOEK - 11 March 2013

No. 5147

### CONTENTS

*Page*

#### GOVERNMENT NOTICE

No. 62      Employment Service Regulations: Employment Service Act, 2011 ..... 1

## Government Notice

### MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 62

2013

#### EMPLOYMENT SERVICE REGULATIONS: EMPLOYMENT SERVICE ACT, 2011

In terms of section 34 of the Employment Service Act, 2011 (Act No. 8 of 2011), I made the regulations set out in the Schedule.

**D. SIOKA**  
**MINISTER OF LABOUR**  
**AND SOCIAL WELFARE**

Windhoek, 21 February 2013

### SCHEDULE

#### ARRANGEMENT OF REGULATIONS

1. Definitions
2. Application for licence
3. Issue of licence
4. Validity of licence
5. Renewal of licence
6. Obligation to notify changes
7. Requirements for commencing operations
8. Records and returns

9. Cancellation of licence
10. Exemption from Part 4 of the Act
11. Issuance of receipts

#### **Annexure - Forms**

#### **Definitions**

1. 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).

#### **Application for licence**

2. (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).

#### **Issue of licence**

3. (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.

#### **Validity of licence**

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

#### **Renewal of licence**

5. (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.

**Obligation to notify changes**

6. 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.

**Requirements for commencing operation**

7. (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.

**Records and returns**

8. (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;
    - (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.
- (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.

#### **Cancellation of licence**

9. (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.

#### **Exemptions from Part 4 of Act**

10. (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.

#### **Issuance of receipts**

11. 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**

- Form ESA 1: Application for Licence and Renewal of Licence
- Form ESA 2: Decision to Approval or Disapproval of Application for Licence
- Form ESA 3: Licence to operate a Private Employment Agency
- Form ESA 4: Notification of Compliance with regulation 13
- Form ESA 5: Notice of Intention to Cancel Licence
- Form ESA 6: Notice of Cancellation of Licence
- Form ESA 7: Application for Exemption
- Form ESA 8: Declaration of Exemption from Part 4
- Form ESA 9: Receipt for Seizure of Documents

## Form ESA 1



**REPUBLIC OF NAMIBIA**  
**MINISTRY OF LABOUR AND SOCIAL WELFARE**

Tel: 061-206 6111

32 Mercedes Street

Fax: 061- 210047

Khomasdal

**APPLICATION FOR LICENCE/RENEWAL OF LICENCE**

**(section 20(1), Regulations 1)**

PLEASE CROSS WHERE APPLICABLE				
Type of application	New licence		Licence renewal	
Form of business	Sole trader	Partnership	Company	Close cooperation

**Instruction Attach hereto the following documents:**

- Business registration certificate
- Application fee of N\$50

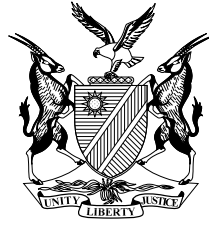
1. PARTICULARS OF PERSON AUTHORIZED TO SUBMIT TO APPLICATION		
Surname:	First names:	
Physical address:	Postal address of the applicant:	
Telephone number:	Fax number:	E-mail address:
Position:		
2. PARTICULARS OF PRIVATE EMPLOYMENT AGENCY		
Name by which private employment agency will operate:		
Physical operating address (if already secured):		
CONTACT DETAILS		
Business telephone number (if already secured):	Business fax number (if any):	Postal address (if any):
Date of intended commencement of operation:		

\_\_\_\_\_  
**REPRESENTATIVE'S SIGNATURE**

\_\_\_\_\_  
**DATE**

**NOTE:** In terms of the section 19(1) of the Employment Services Act, 2011, it is an offence for any person to keep or conduct a Private Employment Agency unless s/he is in possession of a licence issued under Section 20 (1) of the Act.

<b>OFFICIAL USE ONLY</b>			
Date of Application	Date received	Fee Paid N\$ _____	Date received
Verified by	Full names	Signature	Date



**REPUBLIC OF NAMIBIA**

**MINISTRY OF LABOUR AND SOCIAL WELFARE**

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

**DECISION TO APPROVE OR DISAPPROVE APPLICATION FOR LICENCE**

**(Section 20(3), Regulation (3))**

I, ..... acting in my capacity as Director,  
hereby certify that the application of ..... for a licence  
**(NAME OF PRIVATE EMPLOYMENT AGENCY)**

Is approved .....

Is not approved for the following reasons:

.....  
.....  
.....  
.....

\_\_\_\_\_  
**SIGNATURE**

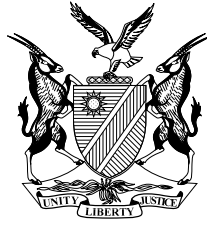
\_\_\_\_\_  
**DATE**

To: (Name and address of applicant)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Form ESA 3



**REPUBLIC OF NAMIBIA**

**MINISTRY OF LABOUR AND SOCIAL WELFARE**

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

**LICENCE TO OPERATE PRIVATE EMPLOYMENT AGENCY**

**(Section 21(1), Regulation 7)**

This is to certify that

---

**(NAME(S) OF APPLICANT)**

has been issued a licence to operate a private employment agency

**IN THE REPUBLIC OF NAMIBIA**

With effect from:

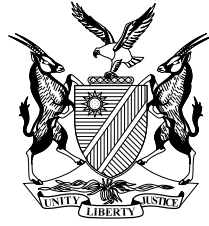
DD	MM	YYYY
----	----	------

to

DD	MM	YYYY
----	----	------

Signature \_\_\_\_\_  
**DIRECTOR: LABOUR MARKET SERVICES**

\_\_\_\_\_  
**DATE**



**REPUBLIC OF NAMIBIA**

**MINISTRY OF LABOUR AND SOCIAL WELFARE**

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

**NOTIFICATION OF COMPLIANCE WITH REGULATION 7**

I .....  
**(NAME OF PRIVATE EMPLOYMENT AGENCY/ESTABLISHMENT)**

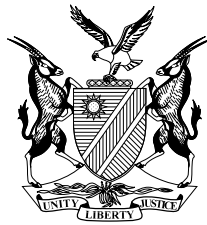
on behalf of the agency .....  
**(FULL NAMES, SURNAME)**

Hereby notify the Director of the following contact information:

<b>1. Business Physical address:</b> ..... ..... <b>3. Business Postal Address:</b> ..... .....	<b>2. Business Account number:</b> ..... <b>Bank:</b> ..... ..... <b>Branch:</b> .....
<b>4. Telephone No:</b> ..... <b>Fax:</b> ..... <b>Email(s):</b> .....	
<b>5. Sector/Industry:</b>	

\_\_\_\_\_  
**Signature of Representative**

\_\_\_\_\_  
**Date**



REPUBLIC OF NAMIBIA

MINISTRY OF LABOUR AND SOCIAL WELFARE

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

NOTICE OF INTENTION TO CANCEL LICENCE

(section 22(2), Regulation (9))

I, ..... acting in my capacity as Director, hereby notify: ..... of my intentions to cancel your licence to (NAME OF PRIVATE EMPLOYMENT AGENCY)

operate a private employment agency for the following reasons:

.....
.....
.....

Signature

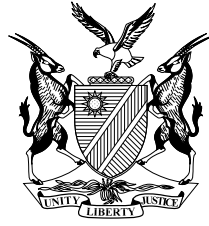
Date

To: (Name and address of applicant)

.....
.....

NOTE:

Any person aggrieved by the decision of the Director in terms of section 20 or section 22 of the Act shall exercise their rights as stipulated under sections 23 of the Act



REPUBLIC OF NAMIBIA

MINISTRY OF LABOUR AND SOCIAL WELFARE

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

NOTICE OF CANCELLATION OF LICENCE

(Section 22(1), Regulation (9))

I, ..... acting in my capacity as Director, hereby cancel the licence of ..... to operate a private employment agency;

For the following reasons:

.....  
.....  
.....

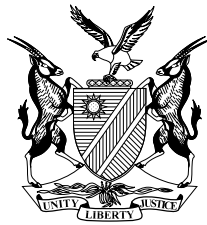
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

To: (Name and address of applicant)

.....  
.....

**NOTE: Any person aggrieved by the decision of the Director in terms of section 20 or section 22 of the Act shall exercise their rights as stipulated under sections 23 of the Act**



REPUBLIC OF NAMIBIA

MINISTRY OF LABOUR AND SOCIAL WELFARE

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

APPLICATION FOR EXEMPTION

(Section 28(4), Regulation (10))

I, .....  
(NAME OF PRIVATE EMPLOYMENT AGENCY/ESTABLISHMENT)

on behalf of the agency .....  
(FULL NAMES, SURNAME)

<b>1. Physical address:</b> ..... ..... .....	<b>2. Postal Address:</b> ..... ..... .....
<b>3. Telephone No:</b> ..... <b>4. Fax:</b> ..... <b>5. Email(s):</b> .....	

Apply to be exempted from the provision of Part 4 of Employment Services Act, No. 8 of 2011, for the following reasons:

.....  
.....  
.....

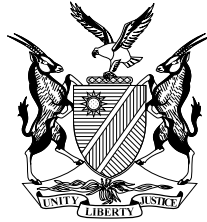
\_\_\_\_\_  
SIGNATURE OF REPRESENTATIVE

\_\_\_\_\_  
DATE

To: Director of Labour Market Services  
32 Mercedes Street - Khomasdal  
Private Bag 19005  
Komasdal

**NOTE: This application does not exempt the applicant from compliance with Part 4 until the Minister has approved the exemption. Attach additional sheets if possible**

Form ESA 8



**REPUBLIC OF NAMIBIA**

**MINISTRY OF LABOUR AND SOCIAL WELFARE**

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

**DECLARATION OF EXEMPTION**

**(Section 28(3))**

I, ..... acting in my capacity as Minister of Labour and Social Welfare,

Grant exemption .....

Refuse exemption .....

<b>1. Full names of the applicant(s):</b>	
<b>2. Physical address:</b> ..... ..... .....	<b>3. Postal Address:</b> ..... ..... .....
<b>4. Telephone No:</b> .....	<b>Fax:</b> .....
<b>Email(s):</b> .....	
<b>5. Sector/Industry:</b>	

from compliance with the Sections (19-26), subjected to the following conditions, if any:

a) ..... ..... .....
b) ..... ..... .....
c) ..... ..... .....

This exemption is effective from: 

DD	MM	YYYY
----	----	------

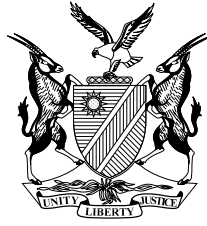
 to 

DD	MM	YYYY
----	----	------

Signed: .....  
**MINISTER OF LABOUR AND SOCIAL WELFARE**

.....  
**DATE**





REPUBLIC OF NAMIBIA

MINISTRY OF LABOUR AND SOCIAL WELFARE

Tel: 061-206 6111

32 Khomasdal Street

Fax: 061- 210047

Khomasdal

RECEIPT FOR SEIZURE OF DOCUMENTS

(Section 30 (3)(e))

NOTE: A copy of receipt of seized documents to be given to the employer/private employment agency.

Affidavit of seizure

I ..... do hereby certify that on ..... day of ..... 20 ..... at ..... (time) I duly seized the following document (s):

NOTE: Describe the document(s) seized)

- a) .....
b) .....
c) .....
d) .....

from ..... (Full name of private employment agency), at ..... (place of business / main office) and s/he dully signed

the document seizure, documents handed over by ..... (names and title of the person)(attach copy of refusal to hand over the documents if any)

Date at ..... this ..... day of ..... 20 .....

Signature of seizing officer

Signature of person handing over documents