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Regulations of Employment Agencies

Bowal, Peter; Yermekbayeva, Kymbat; Beckie, Joshua

Centre for Public Legal Education Alberta (CPLEA)

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Regulation of Employment Agencies

Posted By [Peter Bowal](#) On September 5, 2014 @ 12:27 pm In [Employment Law](#) | [Comments Disabled](#)



[1] . . . *the essential duty of the employment service shall be to ensure . . . the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources.* – [International Labour Organization, *Employment Service Convention, 1948 \(No. 88\)*](#) [2]

Introduction

When public employment agencies were first proposed in 1650, the British Parliament rejected the idea. [1] [3]

Attempts to later establish private employment agencies in the United States were likewise rebuffed. It was thought that a job and one's working life were too precious to allow meddling into them by commercial intermediaries. The International Labour Organization (ILO) was founded in 1919 as part of the *Treaty of Versailles* with the [mission](#) [4] to We still have a federal government department which facilitates human resource development, training and employment, but most of today's employer and employee match-making is done at the private sector level. "promote social justice and internationally recognized human and labour rights ... to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues." Article 2 of the *Employment Service Convention*, which Canada signed in 1950, envisioned a "national system of employment offices" to co-ordinate bringing employers and employees together. We still have a federal government department which facilitates human resource development, training and employment, but most of today's employer and employee match-making is done at the private sector level. There is a wide variety of private for-profit employment agencies operating in Canada, many of which are industry-or profession-specific. The agencies work for many different employer clients who pay them a fee to accomplish a specific task: to provide a list of suitable and available candidates to fill a position. As a sign of the significance that public policy holds for job placement, job seekers who work with private employment agencies should know that those agencies are vigorously regulated by the provinces in which they operate. This article describes such regulation.

Provincial Regulation

The definition of "employment agency" and protections varies slightly in the legislation of different provinces. [This chart \(PDF\)](#) [5] outlines the legislation defining "employment agency" across the English-speaking provinces in Canada. Workers seeking employment cannot directly or indirectly be charged a fee from the employer or the employment agency for job matching services. The Ontario statute permits a job seeker to pay a fee. In Alberta, workers cannot be charged placement fees. Ontario, uniquely, has separate legislation for "temporary help agencies." Alberta employment agencies are licenced along the distinction of being a national or international employment agency. Other provinces do not recognize this distinction for licencing purposes.

Alberta Regulation of Employment Agencies

The Alberta model has an omnibus consumer protection statute supported by several dedicated

regulations to deal specifically with employment agencies: the *Fair Trading Act* ^[6], the *Designation of Trades and Businesses Regulation* ^[7] and the *Employment Agency Business Licensing Regulation* ^[8]. Combined, these three instruments establish numerous rules for employment agencies operating in Alberta, which include any business:

- trying to find people for work;
- trying to find work for people; or
- evaluating or testing an individual for skills or knowledge required for work.

Alberta employment agency business licences can be national or international. The reference point is where the prospective employees are sourced for work that takes place in Alberta. An agency can hold both licences, which are valid for two years. Job seekers and employers enter into agreements with the employment agency. An Alberta employment agency must ensure all agreements with employees and employers:

- are in writing;
- set out the services to be provided (and any restrictions);
- provide the agency's contact information; and
- indicate the schedule of fees that will *not* be charged to the worker.

That is to say, the job seeker will be informed through the attached schedule of prohibited fees that he or she will not have to pay fees for seeking employment, seeking information about potential employment opportunities or being evaluated for employer-demanded skills.

Employment agencies are also not permitted to fill positions for companies where the current employees are on a legal strike. Workers can be charged fees for non-employment agency business services such as resume-writing or job-skills training services, although these fees must be reasonable and set out in a written agreement. All of these agreements must be signed and retained. Workers seeking employment cannot directly or indirectly be charged a fee from the employer or the employment agency for job matching services. The *Licensing Regulation* also prohibits employment agencies from engaging in unfair practices toward job seekers and employers. Unfair practices include:

- threatening or harassing consumers;
- exerting undue pressure;
- providing false, misleading or deceptive information about available positions or legal rights;
- collecting a fee, bond or deposit from the job seeker; and
- failing to enter into separate agreements regarding specific services.

Employment agencies are also not permitted to fill positions for companies where the current employees are on a legal strike.

Notes: 1. Tomás Martínez, *The Human Market Place: An Examination of Private Employment Agencies* (Transaction Inc. 1976) at page 13.

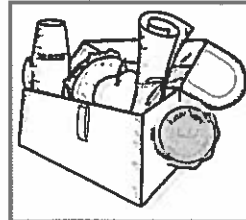
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[1] Image: <http://www.lawnow.org/wp-content/uploads/2012/07/Employment-Law.jpg>

[2] International Labour Organization, *Employment Service Convention, 1948 (No. 88)*: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C088#A1

[3] [1]: #1

[4] mission: <http://ilo.org/global/about-the-ilo/mission-and-objectives/lang-en/index.htm>

[5] This chart (PDF): <http://www.lawnow.org/wp-content/uploads/2014/08/Employment-Agency-Legislation-Chart.pdf>

[6] Fair Trading Act: <http://canlii.ca/t/522q8>

[7] Designation of Trades and Businesses Regulation: <http://canlii.ca/t/5276b>

[8] Employment Agency Business Licensing Regulation: <http://canlii.ca/t/lfw7>

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