



Jersey

## EMPLOYMENT AGENCIES (REGISTRATION) (CODE OF CONDUCT) (JERSEY) ORDER 1970

**This document is published for guidance only and does not purport to be a definitive version of the revised Order as amended by P.---/2013.**

### Arrangement

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## **EMPLOYMENT AGENCIES (REGISTRATION) (CODE OF CONDUCT) (JERSEY) ORDER 1970**

**THE EMPLOYMENT AND SOCIAL SECURITY COMMITTEE**, in pursuance of Articles 11 and 12 of the Employment Agencies (Registration) (Jersey) Law 1969,<sup>2</sup> orders as follows –

Commencement [[see endnotes](#)]

### **1 Interpretation**

In this Order, unless the context otherwise requires –

“agent” means a person registered under the Law as a person carrying on an employment agency;

“agent for training” means an agent who provides training for persons wishing to be employed as performers in the entertainment industry or as models and who holds out, as an inducement to persons to avail themselves of the training, a prospect of the agent’s being able to be of service to them in finding employment as aforesaid with employers;

“applicant” means and includes an applicant seeking an employer, an applicant seeking an employee and a person desiring training;

“employee” includes an applicant seeking an employer;

“Law” means the Employment Agencies (Registration) (Jersey) Law 1969;<sup>3</sup>

“premises” means the premises used for the purpose of carrying on an employment agency by a person duly registered under the Law;

“register” means a book, card or form;

“registration fee” means any fee, audition fee, commission, deposit or monetary payment required or accepted from an applicant either in connection with the registration of the application or for any service connected with such application before the applicant has accepted

employment or entered into the situation procured or has been otherwise suited;

**“seafarer” means any person who is employed, engaged, or works in any capacity, on board a ship;**

**“ship” includes every description of vessel used in navigation, except –**

- (a) a warship or naval auxiliary;
- (b) a fishing vessel;
- (c) a ship which navigates exclusively in inland waters, inshore waters or areas where port or harbour regulations apply; or
- (d) a pleasure vessel as defined in Regulation 1 of the Shipping (Tonnage) (Jersey) Regulations 2004;

**“shipowner” means the owner of a ship, or any other organization or person having assumed responsibility (including the duties and responsibilities imposed on shipowners by the Maritime Labour Convention, 2006) for the operation of a ship on behalf of the owner.**

## 2 Fees or charges

- (1) **Subject to paragraph (1A)**, an agent shall not demand or receive from any applicant any fee, charge, deposit, reward or other remuneration unless –
- (a) the agent has previously furnished to such applicant printed or written particulars of the agent’s fees, charges, deposits, rewards or other remuneration; or
  - (b) if the fee, charge, deposit, reward or other remuneration is paid at the premises by the applicant in person, the agent’s scale of fees, charges, deposits, rewards or other remuneration is exhibited in such a position that it can be read by the applicant in that part of the premises in which payment is made,

and an agent shall not demand or receive from any applicant a fee, charge, deposit, reward or other remuneration greater than that set out in such printed or written particulars or scale.

- (1A) **Paragraph (1) shall not apply in a case where the applicant is a seafarer, and in such a case an agent shall not demand or receive from the applicant any fee, charge, deposit or remuneration whatsoever, in whole or in part, directly or indirectly, and in particular (but without prejudice to the generality of this prohibition) shall not demand or receive –**
- (a) any payment in advance by the applicant towards the cost of repatriation; or
  - (b) any fee or charge relating to the preparation or provision of a seafarer’s employment agreement, except such reasonable cost as may have been incurred by the agent on the seafarer’s behalf in obtaining or providing any of the documents listed in paragraph (1B).



**(1B) The documents mentioned in paragraph (1A)(b) are –**

- (a) a valid medical certificate;**
- (b) a passport or other similar personal travel document (except a visa, the cost of which shall be borne by the shipowner);**
- (c) a document containing a record of the seafarer's employment (a 'seafarer's book');**

**and for the purposes of sub-paragraph (a), a medical certificate is valid if it satisfies the requirements as to such certificates in Regulation 1.2 of the Maritime Labour Convention, 2006.**

- (2) An agent shall not substitute for the amounts of remuneration specified in the agent's form of application for registration any other fees, charges, deposits, rewards or other remuneration without first giving notice in writing of the substitution to the Minister and no such substituted fees, charges, deposits, rewards or other remuneration as aforesaid shall come into force until they have been approved by the Minister.

**3 Keeping of separate client account**

- (1) An agent shall pay all deposits which the agent receives from applicants into a client account which shall be used solely for the purpose of such deposits.
- (2) Any deposit paid by an applicant to an agent shall, unless and until forfeited, be the property of the applicant.
- (3) On receipt of a deposit an agent shall specify on the receipt required to be issued by virtue of Article 5 or 10 and on the carbon copy or counterfoil of such receipt the condition or conditions on breach of which the agent may claim the deposit to be forfeited.
- (4) An agent shall not withdraw monies from a client account save where and to the extent that a deposit has been forfeited.
- (5) An agent shall keep books of accounts which the agent shall at all times keep properly written up and in which the agent shall enter full details of–
  - (a) all dealings by the agent with applicant's deposits and with deposits dealt with through a client account;
  - (b) which deposits are held, received or paid by the agent on account of each separate client, distinguishing clearly between such deposits and other deposits held, received or paid by the agent on any other account.
- (6) An agent shall keep all books of accounts containing such particulars as are referred to in paragraph (5) on the premises for a period of 5 years from the date of the last entry in any book of accounts.
- (7) Nothing in this Article shall deprive an agent of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise against deposits standing to the credit of a client account.

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- (8) For the purposes of this Article “deposit” means any payment made to an agent by an applicant which is neither a registration fee nor a fee to which an agent is entitled for services rendered prior to the payment of such fee.

#### **4 Advertisements**

- (1) An agent shall not advertise a specific situation as being vacant until the agent has taken all reasonable steps to fill the situation from applicants whose names are on the agent’s books and who have paid registration fees to such agent, nor shall the agent advertise the needs of a specific applicant for employment until the agent has taken all reasonable steps to procure such employment from employers whose names are on the agent’s books and who have paid registration fees to such agent.
- (2) An agent shall not in any advertisement, circular, contract or other document issued by the agent or on the agent’s behalf or by any verbal representation made by the agent or on the agent’s behalf in connection with the agent’s business, with intent to deceive, falsely describe the nature, locality or conditions of any employment or the wages offered in connection therewith or the qualifications, character, age or experience of or the wages required by any applicant for employment or make any other representation false in any material particular regarding any employment or applicant for employment.

#### **4A Recruitment and placement of seafarers: additional requirements**

- (1) **This Article applies in relation to agents engaging, or proposing to engage, in recruitment and placement of seafarers.**
- (2) **Such an agent shall have, upon application for registration in accordance with Article 3 of the Law, and shall maintain at all relevant times, sufficient insurance provided by an approved insurer (or another arrangement having the same effect as such insurance), and shall, when required, produce evidence of the insurance or other arrangement to an authorized officer.**
- (3) **For the purposes of paragraph (2) –**
- (a) **“approved insurer” has the same meaning as given to that expression by Regulation 8(7) of the Harbours (Inshore Safety) (Jersey) Regulations 2012;**
- (b) **“authorized officer” means an officer duly authorized under Article 10 of the Law, or such an officer as defined for the purposes of Article 15A by paragraph (3) of that Article;**
- (c) **insurance is sufficient if it provides cover compensating a seafarer for monetary loss incurred as a result of failure by the agent or by a shipowner to meet obligations to the seafarer under the seafarer’s employment agreement.**
- (4) **An agent shall not enter into an agreement with a shipowner for the recruitment of a seafarer unless the conditions in paragraphs (5) and (6) are fulfilled.**



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- (5) The first condition mentioned in paragraph (4) is that the agent shall be satisfied that the shipowner has made sufficient provision, whether by means of insurance or otherwise and as far as practicable, to protect the seafarer from being stranded in a foreign port.
- (6) The second condition mentioned in paragraph (4) is that the agent shall obtain from the shipowner a draft in writing of the seafarer's employment agreement, which –
- (a) is in English or (by consent freely given by the applicant) in a language other than English understood by the applicant; and
  - (b) contains at least the following particulars –
    - (i) the seafarer's full name, date of birth or age, and birthplace,
    - (ii) the shipowner's name and address,
    - (iii) the place where, and date when, the agreement is made,
    - (iv) the post for which the seafarer is employed or engaged and the nature of the seafarer's responsibilities,
    - (v) the amount of the seafarer's wages or the formula to be used for calculating them,
    - (vi) the seafarer's entitlement to paid annual leave or the formula to be used for calculating such leave,
    - (vii) reasonable provisions as to the term of the agreement and its termination, including the minimum notice period, and as to repatriation of the seafarer upon expiry or earlier termination of the agreement,
    - (viii) the health and social security benefits to be provided to the seafarer by the shipowner,
    - (ix) the terms of, or clear reference to, any relevant collective bargaining agreement.
- (7) An agent shall not propose or arrange for the employment, engagement or placement of a seafarer unless the conditions in paragraphs (8) and (9) are fulfilled.
- (8) The first condition mentioned in paragraph (7) is that (without prejudice to the provisions of Article 6(7) of this Order) the agent shall ensure that an applicant is given sufficient opportunity to examine and seek advice on the draft seafarer's employment agreement so that the applicant is able in particular to understand the rights and duties of the shipowner and the applicant under the agreement.
- (9) The second condition mentioned in paragraph (7) is that the agent shall be satisfied that the applicant –
- (a) currently holds all qualifications and competences required in relation to the post in question, and

- (b) **can provide all relevant certificates or other documentary evidence of such qualifications or competences (except that the agent shall not be liable for failure to comply with this condition in a case of fraud or the making of a false statement by the applicant in relation to any qualifications, certificates or other evidence of competence).**

## 5 Receipts for payments or deposits

- (1) An agent (other than an agent for training) shall keep a book of forms of numbered receipts and counterfoils and shall issue a receipt in respect of every payment or deposit made by an applicant and shall enter on such receipt and the counterfoil thereof –
- (a) the agent's trade name and address;
  - (b) the date of payment;
  - (c) the reference number of the applicant in the register of applications made by employers or the register of applications made by persons seeking employment; and
  - (d) where the payment is an engagement fee, the nature of the employment in question and the wages and emoluments attaching thereto:

Provided that a carbon copy of a receipt may be kept instead of a counterfoil.

- (2) Every carbon copy or counterfoil of a receipt required to be kept under the provisions of paragraph (1) shall be kept at the premises for a period of 2 years from the date of the engagement.

## 6 Employment of persons outside Jersey

- (1) An agent, other than a theatrical, concert, variety or cinema agent, shall not arrange for the employment outside Jersey of ~~any female person or~~ any person under the age of 16 years unless the agent is in possession of written information obtained from a responsible person or society testifying to the satisfactory nature of the proposed employment, and, if an engagement is made with or in respect of ~~such female person or such person~~ **such a person** under the age of 16 years for such employment abroad the agent shall keep such written information on the premises for a period of 2 years from the date of the making of the engagement and shall, when required, produce such written information to any officer duly authorized under Article 10 of the Law.
- (2) A theatrical, variety, concert or cinema agent shall not book ~~any female~~ ~~or~~ any person under the age of 16 years to appear or perform at any theatre, music hall, café or other similar place outside Jersey or in any cinema film production outside Jersey or otherwise arrange for the employment outside Jersey of ~~any female person or~~ any person under the age of 16 years, unless the agent is in possession of written information obtained from a responsible person or society testifying to the satisfactory nature of the proposed employment and as to the bona fides of the



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proposed employer and of any person representing himself or herself as acting for such employer.

- (3) At least 3 days prior to the departure abroad in pursuance of a booking such as is referred to in paragraph (2) of ~~a female person~~ or a person under the age of 16 years, an agent shall notify the ~~Committee~~ Minister thereof in writing, stating –
- (a) the name of the ~~female person~~ or person under the age of 16 years;
  - (b) the name of the employer;
  - (c) the address of the place where such person is to be employed; and
  - (d) the name and address of the responsible person or society from whom information regarding the proposed engagement has been obtained,

and the agent shall keep all such written information on the premises for a period of 2 years from the date of the making of the engagement and shall, when required, produce such written information to any officer duly authorized under Article 10 of the Law.

- (4) An agent shall not propose or arrange for the employment outside Jersey of any person under the age of 16 years without first obtaining the written sanction of the person's parents or lawful guardian (which sanction the agent shall keep on the premises for a period of 2 years from the date of the making of the engagement and shall, when required, furnish such written sanction to any officer duly authorized under Article 10 of the Law) and unless the officer has satisfied himself or herself that suitable arrangements have been made for the welfare of such person during the continuance of such employment and for the person's return to Jersey on the conclusion of such employment and that such employment is legal in the country where such employment is to take place.
- (5) On making an engagement with such a person as is referred to in paragraph (4), an agent shall furnish to the person free of cost a written document containing the provisions of that paragraph and stating that such provisions have been complied with in so far as that person's engagement is concerned.
- (6) An agent shall in any particular case, if so required by the Minister, furnish the Minister with full particulars of the arrangements referred to in paragraph (4).
- (7) An agent shall, in every case in which the agent arranges for the employment outside Jersey of any person or for the employment in Jersey of any person resident outside Jersey, furnish such person free of charge with a copy of the contract or other document showing the terms and conditions of such employment drawn up in a language understood by such person and the agent shall keep a copy of such contract or other document on the premises for a period of 2 years from the date thereof, and shall, when required, produce such copy, contract or other document to any officer duly authorized under Article 10 of the Law.

- (8) An agent shall, in every case in which the agent proposes to arrange for the employment outside Jersey of any person or for the employment in Jersey of any person resident outside Jersey, obtain evidence of authorization by the prospective employer to act on his or her behalf and shall keep such evidence on the premises for a period of 2 years from the date thereof, and shall, when required, produce such evidence to any officer duly authorized under Article 10 of the Law.
- (9) Where a request for seasonal employment is made by a person resident outside Jersey, an agent shall, with any reply the agent sends, enclose a copy of the "Notice to Seasonal Workers who wish to find employment in Jersey" current at the time.
- (10) **Nothing in this Article shall be taken as abrogating the prohibitions against, and restrictions on, employment of young people as workers on ships imposed by the Shipping (Employment of Young People) (Jersey) Order 2007.**

## 7 Register of applications made by employers

- (1) Except in a case where the provisions of Article 9 apply, an agent (other than an agent for training) shall keep a register of applications made by employers and shall enter therein particulars of every application as to employment the agent receives and such particulars shall include the following –
  - (a) a reference number against the name of each applicant;
  - (b) the date of registration;
  - (c) the name and address of the applicant;
  - (d) the nature of the employment ÷ , **including in particular and in accordance with paragraph (1A), employment as a seafarer;**
  - (e) the salary, wages or terms offered;
  - (f) the amount of any fee paid or payment made by the applicant and the number of the receipt given for such fee or payment;
  - (g) the name of every person seeking employment who is either named to the applicant or to whom particulars of the employment are given; and
  - (h) if an engagement has been made, the name of the person engaged and the reference number against the name of that person in the register of applications made by persons seeking employment,and shall either keep the applications the agent receives in alphabetical order or keep a correct alphabetical index of such applications.
- (1A) **An agent engaged in recruitment and placement of seafarers shall also keep applications kept in accordance with paragraph (1) in such a manner as to ensure that applications relating to employment as a seafarer can be readily identified as such.**
- (2) An agent shall keep the register containing such particulars as are referred to in paragraph (1) on the premises for a period of 2 years from the date



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of each and every engagement and shall, when required, produce such register to any officer duly authorized under Article 10 of the Law.

## **8 Register of applications made by persons seeking employment**

- (1) An agent (other than an agent for training) shall keep a register of applications made by persons seeking employment and shall enter therein particulars of every application for employment received and such particulars shall include the following –
  - (a) a reference number against the name of each applicant;
  - (b) the date of registration;
  - (c) the name, address, age and sex of the applicant;
  - (d) the nature of the employment desired;
  - (e) the salary, wages or terms desired;
  - (f) the amount of any fee paid or payment made by the applicant and the number of the receipt or receipts given for such fee or payment;
  - (g) the names and addresses of all previous employers during the 3 years prior to the making of the entry and the dates between which the employment or employments occurred and the nature or character of the employment or employments;
  - (h) the name of every employer who is named to the applicant or to whom the name of the applicant is given; and
  - (i) the name of the employer engaging, the date of the engagement, the salary, wages and terms accepted and the reference number against the name of such employer in the register of applications made by employers,

and shall either keep the applications the agent receives in alphabetical order or keep a correct alphabetical index of such applications.

- (2) An agent shall keep the register containing such particulars as are referred to in paragraph (1) on the premises for a period of 2 years from the date of each and every engagement and shall, when required, produce such register to any officer duly authorized under Article 10 of the Law.

## **9 Agents acting as employers**

- (1) Where an agent employs an applicant seeking employment on the basis of the payment of wages by the agent to the employee in return for which the employee agrees to work for any person named by the agent, the agent shall keep a register and shall enter therein the following particulars –
  - (a) the reference number against the name of the employee in the register of applications made by persons seeking employment;
  - (b) the date of the engagement;
  - (c) the salary, wages and emoluments paid to the employee;

- (d) the nature of the employment for which the employee will be hired out;
- (e) the remuneration that will be charged by the agent for use of the services of the employee,

and shall either keep the details in alphabetical order or keep a correct alphabetical index of such applications.

- (2) An agent shall keep the register containing such particulars as are referred to in paragraph (1) of this Article on the premises for a period of 2 years from the date of the making of each and every engagement and shall, when required, produce such register to any officer duly authorized under Article 10 of the Law:

Provided that where an agent employs an applicant seeking employment on the basis specified in paragraph (1) of this Article the agent shall not be required to enter into the register required to be kept by Article 8 such particulars as are set out in Article 8(1)(i) but shall make an entry specifying that the agent has employed the applicant and stating the reference number of the entry relating to such employee in the register required to be kept by this Article.

## **10 Agents for training**

- (1) An agent for training shall keep a register of applications made to the agent by persons desiring training and shall enter therein particulars of every application and such particulars shall include the following –
  - (a) a reference number against the name of each applicant;
  - (b) the date of registration;
  - (c) the name, address, age and sex of the applicant;
  - (d) the nature of the training desired;
  - (e) the number of lessons to be given and the duration of each lesson;
  - (f) the amount of any fee paid or payment made by the applicant and the number of the receipt or receipts given for such fee or payment;
  - (g) where the training is not given by the agent personally, the name, address and qualifications of the person giving the training; and
  - (h) where the applicant is found employment by the agent, the nature of the employment and the salary, wages and emoluments attaching thereto, the name of the employer, the date and length of the engagement and the commission payable to the agent in respect of such employment,

and shall either keep the applications the agent receives in alphabetical order or keep a correct alphabetical index of such applications.

- (2) An agent for training shall keep the register containing such particulars as are referred to in paragraph (1) on the premises for a period of 2 years from the date of each and every engagement and shall, when required, produce such register to any officer duly authorized under Article 10 of the Law.



- (3) An agent for training shall not in any advertisement or circular issued by the agent or on the agent's behalf in connection with the agent's business, with intent to deceive, falsely describe the opportunities which an applicant may have for finding remunerative employment as a consequence of the training given by or on behalf of such agent.
- (4) An agent for training shall keep a book of forms of numbered receipts and counterfoils and shall issue a receipt of every payment or deposit made by an applicant for training and shall enter on such receipt and the counterfoil thereof –
  - (a) the agent's trade name and address;
  - (b) the date of payment;
  - (c) the reference number of the applicant in the register of applications made by persons desiring training; and
  - (d) the number of lessons to be given and the duration of each lesson:Provided that a carbon copy of a receipt may be made instead of a counterfoil.
- (5) Every carbon copy or counterfoil of a receipt required to be kept under the provisions of paragraph (4) shall be kept at the premises for a period of 2 years from the date of the engagement.

#### **11 False entries**

An agent shall not make, cause or suffer to be made any false entry in any register, receipt, or other document required to be kept, furnished, exhibited, drawn up, prepared or executed in pursuance of this Order.

#### **12 Duty of agent to reveal pecuniary interest in proposed employment and to act solely in the interests of applicant**

- (1) An agent before making an engagement on behalf of an applicant in employment in which the agent, or being a limited company, any of its officers, has directly or indirectly any pecuniary interest, shall give to the applicant a written notice stating such interest and the extent thereof.
- (2) An agent shall keep a copy of every such notice on the premises for a period of not less than 2 years from the date of the engagement and shall, when required, produce such copy to any officer duly authorized under Article 10 of the Law.
- (3) An agent shall, in advising or acting for an applicant, have regard solely to the interests of that applicant.
- (3A) Without prejudice to the generality of paragraph (3), an agent shall not use any strategy, mechanism or other means whatsoever to prevent or deter seafarers from obtaining employment in such capacity for which they are suitably qualified.**
- (4) For the purposes of this Article "officer" in relation to a limited company includes a director, manager or secretary.

**13 Duty of agent not to act to detriment of employers**

An agent shall not supply or attempt to supply any employee to an employer unless the agent has reasonable cause to believe that the employee intends bona fide to take up the employment concerned and is suitable therefor.

**14 Termination of employment within 2 days of commencement**

- (1) An applicant who having accepted employment through an agent terminates such employment within 2 days of its commencement on the grounds that it is not suitable having regard to the nature, locality or conditions of the employment or to the qualifications, age or experience of the applicant shall not be liable to pay to that agent a fee for being placed in such employment.
- (2) An applicant who having accepted an employee through an agent dismisses such employee within 2 days of the commencement of the employee's employment on the grounds that the employee is not suitable having regard to the employee's qualifications, character, age or experience, shall not be liable to pay a fee for the agent's services in providing such employee.

~~**15 Information as to complaints to be given to all applicants**~~**15 Complaints: information to be given to all applicants**

An agent shall inform all applicants that complaints of unsatisfactory agency service may be put before the Minister.

**15A Complaints: duty where complaint relates to recruitment and placement of seafarers**

- (1) **An agent engaged in the recruitment and placement of seafarers shall inform applicants who are seafarers that complaints of unsatisfactory agency service may be put before the Minister or an authorized officer.**
- (2) **Where such a complaint is made to the agent in the first instance, the agent shall investigate, and respond promptly to, any complaint of unsatisfactory service in that regard, and shall inform the Minister or an authorized officer of any such complaint which remains unresolved.**
- (3) **For the purposes of this Article, an "authorized officer" includes a person appointed as an inspector pursuant to Article 154 of the Shipping (Jersey) Law 2002.**



**16 Statistical information**

An agent shall make available to the Minister, within one month of being so requested, such statistical information as the Minister may from time to time consider necessary for the proper execution of the Law.

**17 Citation**

This Order may be cited as the Employment Agencies (Registration) (Code of Conduct) (Jersey) Order 1970.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Employment Agencies (Registration) (Code of Conduct) (Jersey) Order 1970	R&O.5367	3 July 1970
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	R&O.48/2005	9 December 2005

**Table of Endnote References**

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- <sup>1</sup> *This Order has been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *chapter 05.250*
- <sup>3</sup> *chapter 05.250*

