

LAWS OF DOMINICA

RECRUITING OF WORKERS ACT

CHAPTER 90:04

**Act
3 of 1943**

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<i>(inclusive)</i>	<i>by L.R.O.</i>
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L.R.O. 1/1991

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CHAPTER 90:04

RECRUITING OF WORKERS ACT

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CHAPTER 90:04

RECRUITING OF WORKERS ACT

1961 Ed.
Cap. 117.
3 of 1943.

AN ACT relating to the recruitment of workers.

Commencement.

[20th September 1943]

Short title.

1. This Act may be cited as the –

RECRUITING OF WORKERS ACT.

Interpretation.

2. (1) In this Act –

“Convention” means the Convention concerning the regulation of certain special systems of recruiting workers adopted by the International Labour Conference in June, 1936;

“licensing officer” means the person appointed by the Minister to be licensing officer for the purposes of this Act;

“licensee” means the holder of a licence under this Act;

“notified place” means any country or place named or specified by the Minister in any notice for the time being in force under section 12;

“prescribed” means prescribed by Regulations made under this Act;

“worker” means a person who is intended to be employed in work of any kind, whether manual or clerical;

“worker-recruiter” means a person who, being employed as a worker, is authorised in writing by his employer to recruit other workers on behalf of his employer, but who does not receive any remuneration or other advantage for such recruiting.

(2) A person recruits within the meaning of this Act who by himself or through others procures, engages, hires or supplies or undertakes or attempts to procure, engage, hire or supply workers for the purpose of being employed by himself or by any other person, so long as such worker does not spontaneously offer his services at the place of employment or at a public emigration or employment office or at an office conducted by an employers’ organisation and supervised by the Government.

3. (1) Subject to the provisions of subsection (7), no person shall recruit workers unless he is licensed in that behalf under the provisions of this Act.

Persons who recruit to be licensed.

(2) Any person desirous of obtaining a licence under this section shall apply to the licensing officer who may in his discretion issue a licence –

- (a) if he is satisfied that the applicant is a fit and proper person to be granted a licence;
- (b) if the prescribed security has been furnished; and
- (c) if he is satisfied that adequate provision has been made for safeguarding the health and welfare of the workers to be recruited.

(3) A licence shall be subject to such conditions as shall be prescribed, and shall not be transferable.

(4) No licence shall be issued for a period exceeding one year, but it may be renewed if the licensing officer is satisfied that the conditions on which it was granted have been complied with.

(5) The licensing officer may cancel any licence in any case where the licensee has been convicted of an offence under this Act or the Regulations made thereunder or has not complied with the conditions under which it was granted or is guilty of conduct which in the opinion of the licensing officer renders him no longer a fit and proper person to hold a licence, and the licensing officer may suspend any licence pending the decision of the Court or the making of any inquiry which he considers necessary.

(6) Any person aggrieved by any decision of the licensing officer under this section may appeal to the Minister.

(7) The provisions of this section shall not apply to worker-recruiters.

4. Persons under the age of eighteen shall not be recruited; but the Minister may by Regulations permit persons under that age but of or above the age of sixteen to be recruited with the consent of their parents or guardians for employment upon light work subject to such conditions as he may prescribe.

Recruitment of persons under the age of eighteen.

Examination of
workers.

5. (1) Recruited workers shall –

(a) be brought before a Magistrate; and

(b) be medically examined,

in accordance with Regulations made under this Act.

(2) The Magistrate before whom any recruited worker is brought shall satisfy himself that the provisions of this Act and the Regulations made thereunder have been observed and that the worker has not been subjected to pressure or recruited by misrepresentation or mistake.

Expenses of
workers.

6. The expenses of the journey of recruited workers and their families to the place of employment, including all expenses incurred for their protection during the journey, shall be borne, and necessities for the journey shall be provided, by the recruiter (not being a worker-recruiter) or employer in accordance with Regulations made under this Act.

Return of
workers to their
homes.

7. A recruited worker who –

(a) becomes incapacitated by sickness or accident during the journey to his place of employment;

(b) is found on medical examination to be unfit for employment;

(c) is not engaged after being recruited for a reason for which he is not responsible; or

(d) is found by a Magistrate to have been recruited by pressure or by misrepresentation or mistake,

and the family of such recruited worker, and the family of a recruited worker who dies during the journey to the place of employment, shall be returned to their homes at the expense of the recruiter or employer in accordance with Regulations made under this Act.

Worker-
recruiters.

8. The provisions of this Act and the Regulations made thereunder shall, unless otherwise expressly provided, apply to worker-recruiters as if they were licenses provided that worker-recruiters shall recruit only in such areas as may be prescribed and shall not make advances of wages to recruited workers.

9. Any person who contravenes any of the provisions of this Act, or the Regulations made thereunder, is liable on summary conviction to a fine of three thousand dollars and to imprisonment for six months. Offences.

10. No person –

- (a) being a recruited worker may proceed to any place outside the State; or
- (b) not being a recruited worker may proceed to any notified place,

No emigration permitted without a permit in certain cases.

unless such person has been granted a permit in accordance with section 11.

11. (1) A permit as aforesaid in the prescribed form shall be granted by a licensing officer to any applicant who – Grant of permit.

- (a) is not a person belonging to Dominica within the meaning of the Immigration and Passport Act; or
- (b) has paid (or, in the case of a recruited worker, has had paid on his behalf by a licensee) such sum not exceeding fifty dollars as may from time to time be prescribed; or
- (c) has satisfied the emigration officer that there is no reasonable possibility of his having to be repatriated at the cost of the State.

Ch. 18:01.

(2) There shall be paid into the Treasury in respect of every permit granted under this Act such sum as may from time to time be prescribed.

(3) Every such permit shall be made in duplicate and shall be in force for one month from the granting thereof.

12. (1) The Minister may from time to time, by Notification, declare any country or place outside the Commonwealth to be a country or place to which no person or class of person may proceed without a permit, and in the same manner to revoke any such declaration. Application of Act.

(2) From and after the publication of the Notification, and so long thereafter as the Notification remains unrevoked, no person or persons of the class named, as the case may be, shall proceed from the State to the country or place named in the Notification without a permit granted under the provisions of this Act.

(3) The name of every person proceeding to a notified place shall be sent by the licensing officer with the least possible delay to the Dominican Consul of the country or place to which the person is proceeding, and if the Consul or other like authority in any notified place pays the cost of repatriation to the State of any emigrant in respect of whom a permit under this Act has been issued, the cost, not exceeding the sum stated in the permit, shall be repaid to the Consul or other like authority in the manner hereinafter provided.

Duty of shipping
agents.

13. (1) No shipping agent or other person engaged or employed in booking or receiving passengers for any ship shall –

- (a) book any person to any notified place; or
- (b) book any person whom he knows or has reasonable grounds for believing to be a recruited worker for any country or place outside the State,

unless that person first produces and leaves with him a permit granted under this Act.

(2) The shipping agent or other person aforesaid shall sign and deliver to the holder of the permit a receipt in the prescribed form.

Duty of master of
ship.

14. (1) The master of any ship bound for any place outside the State –

- (a) shall not receive or have on board as a passenger any person whom he knows or has reasonable grounds for believing to be –
 - (i) bound for some notified place; or
 - (ii) a recruited worker,

unless such person is furnished with a permit granted to him under this Act or with a receipt for that permit signed by the shipping agent or other person who booked him as a passenger by that ship; and

- (b) shall, before demanding clearance for his ship, sign in duplicate a list called a passengers' list which shall correctly set forth the name and other particulars of the ship and of every passenger going by the ship giving their names and the places to which they have respectively taken passages.

(2) The passengers' list shall be countersigned by the Commissioner of Police or by any police officer deputed by the Commissioner of Police, in writing for the purpose, and then delivered by the master to the chief officer of customs from whom a clearance is demanded, and that officer shall thereupon countersign and return to the master one copy which will be marked the "master's list" and shall retain the other which will be attached to the outward manifest of the ship.

(3) If at any time after the passengers' list has been signed and delivered as aforesaid any additional passenger is taken on board, the master shall add to the master's list and also enter on a separate list signed by him the name and other particulars of the additional passenger.

(4) The separate list shall be countersigned by the Commissioner of Police, or by any police officer deputed by the Commissioner of Police, in writing, for the purpose, and shall together with the master's list to which the addition has been made, be delivered to the chief officer of customs who shall thereupon countersign the master's list and return the same to the master, and shall retain the separate list, and so on in like manner whenever any additional passenger is taken on board.

15. (1) The Commissioner of Police, or any police officer authorised generally by the Commissioner of Police in writing, may go on board any ship on which he reasonably suspects any passenger to be in respect of whom a permit under this Act should have been granted and –

Power to search ships.

- (a) require the master of the ship to produce to him any passenger on board the ship who has taken passage from the State and who is reasonably suspected to be a passenger in respect of whom a permit should have been granted; or
- (b) search the ship and remove therefrom any passenger who has not been granted a permit in accordance with this Act, but who is reasonably suspected of being a passenger in respect of whom a permit should have been granted.

(2) Any such passenger may be arrested without a warrant and taken before a Magistrate to be dealt with according to law.

Power to make
Regulations.

16. The Minister may make Regulations for the purpose of giving effect thereto, or to any of the provisions of the Convention; and without prejudice to the generality of the foregoing power he may by Regulations provide for –

- (a) the manner and form in which application shall be made for licenses, the particulars to be furnished upon every such application, the conditions under which any licence may be issued, the form of licences, the fees payable therefor, and the particulars to be set forth therein;
 - (b) the security to be furnished by applicants for licences;
 - (c) the records to be kept by licensees;
 - (d) the remuneration to be paid to the agents of licensees;
 - (e) the restriction of recruiting to certain areas;
 - (f) the supervision of worker-recruiters;
 - (g) the documents to be given to the recruited worker by the licensee;
 - (h) the provision of transport for recruited workers and their families from the place of recruitment to the place of employment;
 - (i) the amount of wages which may be paid in advance to recruited workers, and the conditions under which advances of wages may be made;
 - (j) anything which by this Act is to be prescribed, or as to which regulations are to be made.
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SUBSIDIARY LEGISLATION

RECRUITING OF WORKERS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
2. Welfare of population to be considered.
3. Provisions as to family of recruited worker.
4. Grouping under ethnical conditions.
5. Employment of juveniles.
6. Information to workers of conditions of employment.
7. Period of contract.
8. Transport facilities to be provided.
9. Travelling and maintenance expenses.
10. Care and repatriation of worker's family.
11. Medical examination and appearance before Magistrate.
12. Grant of permit.
13. Records to be kept.
14. Licensee's assistants to obtain a permit.
15. Licence fees.
16. Amount of security bond.

SCHEDULE.

SUBSIDIARY LEGISLATION

2/1944.
[33/1944].

RECRUITING OF WORKERS REGULATIONS

made under section 16

Commencement.

[17th January 1944]

Short title.

1. These Regulations may be cited as the –

RECRUITING OF WORKERS REGULATIONS.

Welfare of
population to be
considered.

2. (1) Before granting permission to recruit labour in any area, the licensing officer shall take into consideration the possible effects of the withdrawal of adult males on the social life of the population concerned, and in particular shall consider –

- (a) the density of the population, its tendency to increase or decrease, and the probable effect upon the birth-rate of the withdrawal of adult males;
- (b) the possible effects of the withdrawal of adult males on the health, welfare and development of the population concerned, particularly in connection with the food supply;
- (c) the dangers to the family and morality arising from the withdrawal of adult males; and
- (d) the possible effects of the withdrawal of adult males on the social organisation of the population concerned.

(2) The licensing officer may, in order to safeguard the populations concerned against any untoward consequences of the withdrawal of adult males, fix the maximum number of adult males who may be recruited in any given social unit in such manner that the number of adult males remaining in the unit does not fall below a prescribed percentage of the normal proportion of adult males to women and children.

Provisions as to
family of
recruited worker.

3. (1) The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

(2) The licensing officer may take the necessary measures to encourage recruited workers to be accompanied by their families, more

particularly in the case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods exceeding a year.

(3) Except at the express request of the persons concerned, recruited workers shall not be separated from wives and minor children who have been authorised to accompany them to, and to remain with them at, the place of employment.

(4) In default of agreement to the contrary before the departure of the worker from the place of recruiting, an authorisation to accompany a worker shall be deemed to be an authorisation to remain with him for the full duration of his term of service.

4. The licensing officer may make it a condition of permitting recruiting that the recruited workers shall be grouped at the place of employment under suitable ethnical conditions.

Grouping under ethnical conditions.

5. No juvenile between the ages of sixteen and eighteen shall be recruited except with the consent of his parents or guardian and provided the conditions of employment are stated in writing and approved by the Magistrate of the district in which he is recruited or to be employed, and the Magistrate must satisfy himself that the work is suitable and that the welfare of the juvenile is sufficiently safeguarded.

Employment of juveniles.

6. The licensing officer shall, as a condition of granting a licence, require the issue to each recruited worker, who is not engaged at or near the place of recruiting, of a document in writing such as a memorandum of information, a work book or a provisional contract containing such particulars as the authority may determine, as for example particulars of the identity of the workers, the prospective conditions of employment and any advances of wages made to the workers.

Information to workers of conditions of employment.

7. The period of employment for recruited workers shall not exceed a maximum of two years from the date of their arrival at the place to which they are recruited for work; but at the end of the period of two years the employer may, with the consent and approval of the recruited worker, extend the period for a further period of twelve months.

Period of contract.

8. (1) The recruiter or employer shall whenever possible provide transport to the place of employment for recruited workers.

Transport facilities to be provided.

(2) The licensing officer shall take all necessary measures to ensure –

- (a) that the vehicles or vessels used for the transport of workers are suitable for the transport, are in good sanitary condition and are not overcrowded;
- (b) that when it is necessary to break the journey for the night suitable accommodation is provided for the workers; and
- (c) that in the case of long journeys all necessary arrangements are made for medical assistance and for the welfare of the workers.

(3) When recruited workers have to make long journeys on foot to the place of employment, the licensing officer shall take all necessary measures to ensure –

- (a) that the length of the daily journey is compatible with the maintenance of the health and strength of the workers; and
- (b) that, where the extent of the movement of labour makes this necessary, rest camps or rest houses are provided at suitable points on main routes and are kept in proper sanitary condition and have the necessary facilities for medical attention.

(4) When recruited workers have to make long journeys in groups to the place of employment, they shall be accompanied by a responsible person.

Travelling and maintenance expenses.

9. (1) The expenses of the journey of recruited workers to the place of employment, including all expenses incurred for their protection during the journey, shall be borne by the recruiter or employer.

(2) The recruiter or employer shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking water, fuel and cooking utensils, clothing and blankets.

Care and repatriation of worker's family.

10. Where the families of recruited workers have been authorised to accompany the workers to the place of employment the Magistrate shall take all necessary measures for safeguarding their health and welfare during the journey and more particularly –

- (a) regulations 8 and 9 shall apply to the families;
- (b) in the event of the worker being repatriated in virtue of section 7 of the Act, his family shall also be repatriated; and
- (c) in the event of the death of the worker during the journey to the place of employment, his family shall be repatriated.

11. (1) Every worker to be recruited shall first be medically examined by the medical officer of the district in which he resides as to his fitness to engage in the type of employment in the place of such employment.

Medical examination and appearance before Magistrate.

(2) Every worker shall produce, to the Magistrate of the district in which he resides, the medical officer's certificate and the contract to be signed for such employment.

(3) If the Magistrate is satisfied that the medical certificate is in order and that the terms of the contract provide adequate protection for the welfare of the worker, he shall endorse thereon his permission for the contract to be signed.

12. The licensing officer shall grant a permit to a worker in the Form set out as Form 1 in the Schedule, on production to him of the contract duly endorsed in accordance with the preceding section. The fee therefor shall be ten dollars. The licensing officer shall retain a duplicate copy of each permit issued by him.

Grant of permit. Form 1. Schedule.

13. Every licensee shall keep, in such form as may be required by the licensing officer, records from which the regularity of every recruiting operation can be verified and every recruited worker can be identified.

Records to be kept.

14. (1) No person shall assist a licensee in a subordinate capacity in the actual recruiting operations unless he has been approved in writing by the licensing officer on the written application of the licensee.

Licensee's assistants to obtain a permit.

(2) Licensees shall be responsible for the proper conduct of such assistants.

15. The fee to be paid into the Treasury for a recruiting licence, or for any renewal thereof, with respect to each period of twelve months or less expiring on the 31st December following the date of issue of the

Licence fees.

licence shall be five hundred dollars, provided that whenever a licence authorises the recruiting of not more than one hundred workers, only one-half of the fee shall be paid.

Amount of
security bond.
Form 2.
Schedule.

16. Before a licence is issued, the licensee shall enter into a bond in the Form set out as Form 2 in the Schedule with sufficient sureties to the satisfaction of the licensing officer for such sum as the licensing officer shall determine having regard to the number of workers to be recruited, the nature of their employment and wages, and the places of their employment.

SCHEDULE

(Reg. 12).

FORM 1

PERMIT FOR RECRUITED WORKERS

Permission is hereby granted to _____ of _____, a recruited worker, to proceed to _____, under the terms and conditions provided in the Recruiting of Workers Act, Chap. 90:04.

This permit shall be in force for one month from the date of issue.

Dated this _____ day of _____, 19 ____.

.....
Licensing Officer

(Reg. 16).

FORM 2

FORM OF BOND

Dominica.

THE RECRUITING OF WORKERS ACT, CHAP. 90:04

BOND

KNOW ALL MEN BY THESE PRESENTS that we _____ of _____ and _____ of _____ and _____ of _____ are held and firmly bound to the State in the sum of _____ dollars to be paid into the Treasury for which payment to be well and truly made we bind ourselves and each and any two of us, our and each and any two of our heirs, executors, and administrators jointly and severally by these presents.

Dated this _____ day of _____, 19 ____.

WHEREAS of hereinafter called “the licensee” in obedience to the Recruiting of Workers Act, has applied for a licence to hire and engage workers, hereinafter called “the workers”, for the purpose of being employed as workers in (name of country and place or locality within such country where work or service is to be rendered).

AND WHEREAS the licensing officer has consented to grant such licence as is required by the said Act upon the licensee entering into the above-written bond subject to the condition hereinafter mentioned.

NOW THEREFORE, the condition of the above-written bond or obligation is such that if the licensee shall well and truly observe and perform all and every the provisions of the Recruiting of Workers Act, and all and every the conditions and stipulations in the contract to be made and entered into between the licensee and the workers in pursuance of and under the provisions of the said Act, and shall answer whenever so required and pay all damages and costs which shall or may be recovered by the workers or any of them in any action upon or for any breach of such contract, then the above-written bond or obligation shall be void, but otherwise the same shall remain in full force and virtue.

Signed and delivered
by the licensee
in the presence of: }

Name
Address
Occupation

Signed and delivered
by in the
presence of: }

Name
Address
Occupation

Signed and delivered
by in the
presence of: }

Name
Address
Occupation

