

# Employment agent licensing requirements



Your questions answered



Department of Consumer  
and Employment Protection  
Government of Western Australia  
Consumer Protection

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If you require an interpreter, call the Translating and Interpreting Service (TIS) on 131 450 and ask for connection to 1300 30 40 54.

The Consumer Protection Division of the Department of Consumer and Employment Protection (DOCEP) has prepared the following 'frequently asked questions'. They aim to assist individuals and businesses seeking to become employment agents to understand their rights and responsibilities on licensing under the *Employment Agents Act 1975* and associated regulations. You will also find the information useful if you are already involved in the industry.

### Do I need to be licensed?

All individuals, partnerships or bodies corporate (companies and other incorporated bodies) who carry on business as employment agents must be licensed under the *Employment Agents Act 1976* (the Act). This includes traditional employment agencies and employment brokers, plus booking agencies, babysitting agencies, housesitting agencies, and cleaning agencies.

You are considered to be 'carrying on business' as an employment agent if:

- you receive payment for helping people find employment or for finding employees for other people or businesses (whether you do this full time, part time or just occasionally); or
- whether or not for reward, you place people in jobs and receive from the employer an 'entrance fee', periodical contribution or any other charge for your services.

The following are specifically exempted from the need to be licensed:

- newspaper publications;
- labour hire companies;

- people licensed under other Acts of Parliament to handle the employment of seamen; and
- State or Federal Government departments or instrumentalities.

Other exemptions from the Act can be granted by an Order in Council made by the Governor.

If you are unsure whether you are classed as a labour hire company, ask yourself the following questions:

- Do you employ the entire labour force yourself?
- Are you the employer responsible for the payment of wages or other lawful obligations to an employee?
- As an employer, do you provide the services of your employees to perform tasks of a temporary nature, based on predetermined rates agreed between your client and yourself, but you are still responsible for the payment of wages and other lawful obligations for the employees?

### How do I apply for a licence?

Apply to the Commissioner for Consumer Protection at DOCEP.

Application forms are available from any office of DOCEP or from our website at:

**[www.docep.wa.gov.au](http://www.docep.wa.gov.au)**

### Why do applications go to the Commissioner for Consumer Protection?

Previously licences were granted by the Commercial Tribunal; however, from 1 January 2005 this function was transferred to the Commissioner for Consumer Protection.

The Commissioner also has a duty under the Act to conduct whatever inquiries into applications are considered necessary. These include:

- character checks of individual applicants, directors, office holders and managers; and
- business name checks to ensure that applicants seeking to operate under names that are different from their own, have those names properly registered under the *Business Names Act 1962*.

### What information is required when making an application?

There are two separate prescribed application forms which need to be completed, depending on your type of business.

If your business is a sole trader, use the form headed Licence Application for an Individual.

If your business is a partnership (firm) or body corporate, use the form headed Licence Application on behalf of a Body Corporate or Partnership.

You will also need to provide the following information:

- if you are a body corporate, provide a certificate of company registration;
- if you are a sole trader, firm or body corporate trading under a business name, provide the Business Names registration certificate;
- the address of your principal place of business and any other place where the business will be carried on. These addresses should be the same as the addresses shown on your business names registration;
- ensure that a notice in the prescribed form is published in a state-circulated newspaper. The original page of the newspaper containing the advertisement must be submitted within 28 days of publication;

- two character references from two people who are resident in the state of Western Australia. Referees are to state their full names, business address or residential address. A reference from a relative will not be accepted;
- an original National Police Certificate not more than one month old;
- a current resumé;
- your scale of fees; and
- a notice of employment offered. (This is a requirement under section 42 of the Act. A template is available on our website).



## Do I need any specific qualifications to hold a licence?

No. However, it is essential that you have a working knowledge and understanding of the Act. You can get a copy of the Act from the State Law Publisher's website at [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

## How much is a licence?

The licence fee is the same for an individual, partnership, or body corporate. A schedule of licence fees can be found on the website at [www.docep.wa.gov.au](http://www.docep.wa.gov.au).

## Can anyone object to my application?

Anyone, including the Commissioner for Consumer Protection, can object to your application.

Objections must specify the ground of the objection, which must be one upon which the Commissioner for Consumer Protection could refuse the licence. The objection must be lodged with the Commissioner within 14 days of the notice of application appearing in a state-circulated newspaper.

## How long does it take to get a licence?

Once the period for objections has closed and provided all necessary information and supporting documents have been supplied, licence applications take approximately 28 days to process.

## Can my application be refused?

Applications will be refused if you:

- are under 18 years of age;
- are disqualified from being involved in the direction, management or conduct of the business of an employment agent;

- cannot demonstrate adequate supervision and management of the places of business;
- are not likely to carry on business fairly and honestly; or
- are in any way not a fit and proper person to hold a licence.

If your application is refused, you will be notified of the reason(s) in writing.

### **Can the Commissioner for Consumer Protection apply conditions to my licence?**

Yes. If a conditional licence is issued you must comply with the conditions at all times.

### **What right of appeal do I have?**

You have the right to appeal to the State Administrative Tribunal if:

- the Commissioner for Consumer Protection refuses your application; or
- your licence is granted subject to conditions or restrictions with which you do not agree.

### **How long is a licence valid?**

An employment agent's licence is valid for three years.

Your licence will expire if you fail to lodge your renewal statement with all the required supporting documentation and pay the prescribed renewal fee to the Department of Consumer and Employment Protection.

Where an application is made for renewal of a licence after, but within three months of the date on which that licence expired, the licence may be renewed. However, the Act does not allow for renewals lodged more than three months after the expiry date. You would then need to make a new application.

### **Is there a penalty for late applications?**

New applications will not be accepted if they are received by the Commissioner more than 28 days after the date of publication of the newspaper advertisement. The applicant must re-advertise in the newspaper.

If a renewal application is received after the expired date, then the renewal fee must be paid plus a prescribed late penalty fee of 25 per cent of the renewal fee.

### **If I buy an employment agency, can the licence be transferred to me?**

No. If you wish to carry on business as an employment agent, you must apply for your own licence. Employment agent licences are not transferable.

### **When can the licence be transferred to another licence holder?**

Where an individual holds a licence on behalf of a firm or body corporate, the licence may (with consent of the current licence holder) be transferred to any person within that firm or body corporate.

Other than a reduced application fee, all transfer applications are treated in the same way as new applications.

### **I am going overseas for a year. What happens to my licence?**

You may submit a formal written request to suspend your licence for the period of your absence. During your absence, you are still required to pay the prescribed fee.

### **If I make any changes to my particulars, who do I notify?**

Changes to your address, business name, company name, partnership (firm), or the licence holder must be in writing to:

Employment Agent Licensing Officer  
Department of Consumer and Employment Protection  
Locked Bag 14  
CLOISTERS SQUARE WA 6850

### **Further information**

For further information contact:  
Employment Agent Licensing on (08) 9282 0834  
or [employmentagents@docep.wa.gov.au](mailto:employmentagents@docep.wa.gov.au).





Department of Consumer  
and Employment Protection  
Government of Western Australia

**Consumer Protection Advice Line**

**1300 30 40 54**

(for the cost of a local call statewide)

8.30am – 5.00pm weekdays

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