

EMPLOYMENT OF EMPLOYEES BY MANPOWER CONTRACTORS LAW, 5756-1996

CHAPTER ONE: INTERPRETATION

Definitions.

1. In this Law -

“Collective agreement” - as defined in the Collective Agreements Law 5717-1957, including extension orders within their meaning as defined in the said Law, and a written collective agreement:

“Actual employer” – means a person with whom an employee of a manpower contractor is employed, save for an individual with whom such an employee is employed in the provision of long term nursing care; for this purpose, “long term nursing care” – shall be as it is defined in section 223 of the National Insurance Law (Consolidated Version) 5755-1995

“Manpower contractor” means a person engaged in the provision of manpower services by his employees for the purposes of work for another person, including a private bureau within its meaning as defined in the Employment Service Law 5719-1957, which also engages in the provision of manpower services;

“The Minister” means the Minister of Labour and Social Affairs

Note: The State as employer.

For the purposes of his Law the State as an actual employer shall be treated legally in the same way as any actual employer.

CHAPTER TWO: LICENSING.

License.

2. (a) No person shall act as a manpower contractor, unless he holds a license therefor from the Minister, and on the conditions of such license.

(b) A license under this section shall be granted for one year, and it may be renewed for additional periods of one year at a time.

(c) Where the Minister considers that a license should not be renewed, he shall inform the license holder of his reasons for such non-renewal at least 30 days before the license expires, and before he makes his decision he shall give the license holder an opportunity arguing his case before him, where the Minister has not given notice of his decision not to renew the license, then the license shall be renewed for additional periods of one year at a time.

(d) An application for a license shall be submitted in a manner to be prescribed by the Minister, and it shall include such particulars and have such documents attached to it, all as the Minister shall prescribe.

Conditions for grant of license.

3. (a) A license shall only be granted to a person who wishes to act as a manpower contractor if he meets the following requirements:

(1) He, or the manager, employed by him - as the case may be - has at least three years experience in the provision of manpower services or in the management of manpower;

(2) He has provided a bank guarantee or some other suitable surety for the fulfillment of his obligations to his employees, in a manner to be prescribed by the Minister and in an amount to be determined in the light of the extent of his business, all in accordance with regulations which the Minister shall make with the approval of the Knesset Labour and Social Affairs Committee; the said regulations may also prescribe the manner of forfeiture of the said guaranty or surety;

(3) during the five years that preceded the application the applicant for license or any other holder of a ranking position in his business has not been convicted of a flagrantly dishonorable offence or of an offence which - because of its severity or circumstances - makes him unfit to act as a manpower contractor.

(b) In addition to the provisions of subsection (a), the Minister may make the granting of a license conditional on the existence of conditions for the orderly conduct of the business of the applicant

for a license, and he may also make the granting of a license conditional on proof that the applicant for the license is economically stable and that appropriate physical and environmental conditions exist.

(c) The Minister may refuse to grant a license to an applicant, for reasons, which would entitle him to cancel or restrict it under the provisions of Section 6.

(d) The provisions of this section shall also apply, *mutatis mutandis*, to a decision not to renew a license as provided in section 2(c).

Conditions in license.

4. (a) The Minister may prescribe in a license, conditions in relation to the matters enumerated in section 3(a) and (b) which must be met; where circumstances have changed after the issue of such license, then the Minister may add conditions to the license in respect of the said matters.

(b) The Minister may, with approval by the Knesset Labour and Social Affairs Committee, prescribe conditions that shall be deemed to be included in licenses, in respect of matters enumerated in Section 3(a) and (b) or of other subjects, either in general or in respect of categories of manpower contractors.

Minister's decision on application.

5. If the Minister concludes that an application should be approved, then he shall grant a license to the applicant; if the Minister concludes that an application should not be approved or that conditions should be imposed as provided in sections 3(b) and 4(a) then the Minister shall inform the applicant of his reasons and give him an opportunity to present his arguments.

Cancellation or suspension of license.

6. (a) After the Minister has given the license holder an opportunity to present his arguments, he may restrict or cancel a license, if one of the following applies to the manpower contractor:

(1) the license was granted on the basis of false or mistaken information;

(2) one of the conditions for the grant of the license no longer exists;

(3) he has broken one of the conditions of the license;

(4) he or the holder of a ranking position in his business has been convicted of an offence involving moral turpitude or of an offence which - because of its severity or circumstances - makes him unfit to act as a manpower contractor.

(5) he has been declared bankrupt or legally incompetent, and if he is a body corporate - a temporary winding up order has been made or a receiver has been appointed for him or the body corporate has passed a resolution for voluntary winding up.

(6) he has broken a substantive obligation imposed on him by the provision of any enactment, collective agreement or work contract, which grants rights to employees, after he had been given a warning by the Minister.

(b) If an indictment has been lodged against a license holder, under which he is liable to be convicted of an offence as provided in subsection (4)(a), or if application has been made to have him adjudged bankrupt, and - if the license holder is a body corporate - an application for a winding up order or for the appointment of a receiver has been submitted, then the Minister may - after he has given the license holder an opportunity to present his arguments - suspend the license until the proceedings are concluded.

Continued employment.

7. Where the license of a manpower contractor has been canceled, suspended or not renewed, then he may continue to employ the employees whom he employed for another person immediately before such cancellation, suspension or non-renewal, during a period prescribed by the Minister; the Minister may so order if he concludes that this is necessary for the employees' protection, having regard to the circumstances of such cancellation, suspension, or non-renewal of the license.

Appeal.

8. Where a person considers himself aggrieved by the Minister's decision in respect of an application submitted, a condition in a license, or the cancellation, suspension, or non-renewal of a license under the provisions of this Chapter, then he may appeal against it to the National Labour Court within 45 days after the decision came to his knowledge.

Reporting and notice of changes in particulars.

9. (a) License holders shall deliver to the Minister - once a year on a date to be set by the Minister - audited reports of their activity as manpower contractors, which shall include data on the number of employees, by branches of employment, work places, the periods of their work, wages, payments in respect of employees under legislation, and additional similar data that shall be prescribed by the Minister.
- (b) If, in the Minister's opinion, there are additional circumstances to justify doing so, then the license holder shall deliver to the Minister, at the Minister's request, reports as provided in subsection (a) at such intervals shorter than one year, as the Minister shall prescribe.
- (c) License holders shall inform the Minister in writing, within 30 days after the change, of any change in a particular that he has furnished under this Chapter.

International services by manpower contractors.

10. (a) No person shall act as a manpower contractor who provides manpower services of employees who are not Israel residents or of employees from Israel at a workplace abroad, unless he has been granted a special permit for the same by the Minister, and in accordance with the conditions of the said permit, and this being in addition to a license as provided in Section 2.
- (b) The provisions of this Chapter shall apply to a permit under this section, *mutatis mutandis*, and furthermore the Minister may refuse to grant a permit, may make the grant of a permit subject to additional conditions, or prescribe the aforesaid conditions in the permit, having regard, *inter alia*, to the need for fulfillment of the contractor's obligations toward his employees, and in respect of the provision of manpower services by employees who are not Israel residents - and also to the employment situation in Israel.

CHAPTER THREE: EMPLOYMENT CONDITIONS

Contract of employment must be in writing

11. (a) The employment conditions of employees of manpower contractors shall be set out in written agreements between them, unless a collective agreement, that prescribes the employment conditions of the manpower contractor's employees, applies to them.
- (b) The manpower contractor, prior to the commencement of his employment, shall give the employee a copy of the written agreement drawn up between them; where a collective agreement applies to them, then the contractor shall afford the employee an opportunity of reading it.

Contractor and actual employer prohibited from charging employee

12. (a) A manpower contractor must not accept and shall not demand - in any manner whatsoever, directly or indirectly - any consideration for his services or any refund of expenses from any employee employed by him or from any candidate for employment with him.
- (b) Where a person actually employs an employee of a manpower contractor, then he shall not demand and shall not collect from the employee - in any manner whatsoever, directly or indirectly - full or partial consideration for amounts which he has paid to the manpower contractor for his services or as a refund of his expenses.
- (c) The provisions of subsection (a) shall not apply to payment for vocational training, where this provided for the candidate for employment before his employment by the contractor begins, in order to prepare him for his employment.
- (d) The Minister may prescribe, with approval by the Knesset Labour and Social Affairs Committee, in general or by categories, restrictions and conditions for payment for vocational training, including the categories of vocational training for which employees or candidates for employment must not be charged under this section.

Employment of an employee of a manpower contractor.

- 12A. (a) An employee of a manpower contractor shall not be employed with an actual employer for a continuous period in excess of six months; employment for the purposes of this section shall be deemed to have been continuous even where employment has ceased for a period of not exceeding nine months.
- (b) Notwithstanding the provisions of subsection (a) the Minister may, in exceptional cases, allow an employee to be employed with an actual employer for a period in excess of nine months, provided that the total period of employment with that actual employer does not exceed fifteen months.
- (c) Where an employee as aforesaid is employed with the same actual employer for a period in excess of nine continuous months or for an additional period that has been extended in accordance

with subsection (b) such employee shall be deemed to be an employee of the actual employee at the end of such nine month or extended period, as the case may be.

(d) Where an employee of a manpower contractor is deemed to be an employee of the actual employer as provided in subsection (c), the period of service seniority acquired by the employee during the period of his employment by the manpower contractor with the actual employer shall be added to the period of service seniority acquired by the employee during the period in which he has been employed by the actual employer.

Applicability of terms of employment.

13. (a) Terms of employment, and at a workplace where a collective agreement is in force - the provisions of such collective agreement, which apply to employees at a workplace in which manpower contractors' employees are also employed shall, as the case may be, apply to those employees of a manpower contractor who are employed at the same workplace, respectively, *inter alia*, to the category of employment and to period of service seniority with the actual employer.

(b) Where more than one collective agreement applies to an employee of a manpower contractor, the one that contains the provisions that are the most favorable to the employee shall be applied; for the purpose of this subsection, "collective agreement" - includes a collective agreement that applies to employees by virtue of subsection (a) or a collective agreement that regulates the terms of employment with such manpower contractor.

(c) The provisions of subsection (a) shall not apply in relation to an employee whose terms of employment with a manpower contractor are regulated by a general collective agreement within the meaning thereof in the Collective Agreements Law, 5717-1957, provided that such agreement has been extended by an extension order, and the definition "collective agreement" in section 1 shall not apply to such a case.

**Note: Commencement and transitional provisions
for the purposes of sections 12A and 13**

- (a) This law shall come into force six months from the date on which it is published.
- (b) Notwithstanding the provisions of subsection (a), in respect of an employee to whom an agreement for the provision of manpower services applies, between a manpower contractor and an actual employee, signed prior to the day on which this law was passed by the Knesset, the day of the coming into the force of this Law shall be either one year from the date of its publication or from the end of the period in which the said agreement was in force, whichever is the earlier of the two dates.
- (c) Any period during which an employee of a manpower contractor was employed prior the date of the coming into force of this Law, as provided in subsection (a) or (b) as the case may be, shall not be counted for the purposes of the provisions of section 12A.

14. Repealed

Void Contractual Terms.

15. Any stipulation in a contract, which prohibits, either absolutely or temporarily, an actual employer in the workplace where the contractor's employee is employed from employing the employee, or which prohibits, directly or indirectly, such an employee from becoming an employee of the actual employer in the said workplace, shall have no effect.

Employment prohibited during strike or lockout.

16. Manpower contractors shall not employ employees who take the place of employees who participate in a strike, and shall not supply employees to take the place of employees made idle by a lockout, as long as the strike or lockout continues.

Saving of rights.

17. The provisions of this Law shall be in addition to the rights of any employee under any enactment, collective agreement or contract of employment.

Prohibited stipulations.

18. No rights of an employee under this Law shall be subject to any qualification or waiver.

CHAPTER FOUR: MISCELLANEOUS PROVISIONS

Supervision.

19. (a) The Minister shall appoint inspectors from among the employees of the Ministry of Labour and Social Affairs, to supervise the implementation of the provisions of the Law.
- (b) Manpower contractors shall give an inspector, on demand, any information, particulars and documents connected with their activity, within the time limit prescribed in such demand, or periodically at the times stated in it.
- (c) In the exercise of his lawful functions an inspector may -
- (1) enter any place in which he has reason to believe that persons are employed in it, or that a manpower contractor's business is conducted there, but he shall only enter a place used for residential purposes by order of a Judge;
 - (2) examine and copy any book, certificate, report or other document,
 - (3) be accompanied by a police officer, if he has grounds to fear interference in the performance of his duties.
- (d) For the purpose of the discovery of the commission of an offence under this Law, there being reasonable suspicion that such an offence has been committed, an inspector shall have the investigative powers of a police officer under sections 2 and 3 of the Criminal Procedure (Evidence) Ordinance, on condition that the person questioned shall not be obliged to give any answer that might incriminate him.

Penalties.

20. (a) The following are liable to double the fine prescribed in section 60(a)(1) of the Penal Law 5737-1977 (hereinafter referred to as: "the Penal Law"):
- (1) a person who contravened the provisions of sections 9, 12(a) or (b), 16 or 19(b);
 - (2) a manpower contractor who has not met his obligations under section 11.
- (b) Whereas person committed an offence contrary to the provisions of sections 2(a) or 10(a), then he shall be liable to six months imprisonment.
- (c) Where a person has obstructed a supervisor in the exercise of his powers under section 19, then he shall be liable to six months imprisonment.

Duty of supervision.

21. (a) A holder of office must supervise and do everything possible to prevent the commission of offences as prescribed in section 20 by a body corporate or by any of its employees, where any person is in breach of his said obligation, then he shall be liable to the fine prescribed in section 60(a)(2) of the Penal Law; for the purposes of this section, "an office holder" - shall mean an active director in of body corporate, a partner - other than a limited partner - and any official whose job it is to prevent a breach of this Law.

(b) Where an offence under section 20 has been committed by a body corporate, the presumption shall be that an office holder is in breach of his obligation under this section, unless he proves that he acted without criminal intent and not negligently, and that he did everything possible to prevent the offence being committed.

Saving of enactment.

22. This law is intended to add to, and not to derogate from the provisions of any enactment.

Jurisdiction of the court.

23. The Labour Court has sole jurisdiction to hear any claim, the grounds for which are in the provisions of this Law.

Amendment of Labour Courts Law

24. At the end of the Second Schedule of the Labour Courts Law 5729-1969, add: "Employment of Employees by Manpower Contractors Law 5756-1996".

Implementation and regulations.

25. The Minister is charged with the implementation of this Law and he may make regulations on any matter connected with its implementation.

Effect and transitional provisions.

26. This Law shall come into force six months after its publication.

Publication.

27. This Law shall be published in *Reshumot* within 20 days after being passed by the Knesset.