



Employment Agencies & Temporary Working Regulations

**DEPARTMENT FOR INDUSTRIAL AND EMPLOYMENT
RELATIONS (DIER)**

What do we mean by Employment Agencies (Recruitment)?

- Employment Agencies are engaged in an activity of bringing together and matching people looking for employment and job opportunities both in Malta or outside Malta.
- These offer services such as: keeping a register of applicants for employment or the referral of applicants for employment, placing applicants in employment; placing of adverts for the filling of employment vacancies, interviewing and selection of applicants for employment and offering employment contracts for or on behalf of any employer to applicants for employment.

What do we mean by Temporary Work Agencies?

- Temporary work agencies are any natural or legal persons who enter into contracts of employment or employment relationships with temporary agency workers and who assign, whether on a regular or on an irregular basis, the temporary agency workers to user undertakings to work there temporarily under their supervision and direction.
- The employees may enter into a contract of employment or an employment relationship with a temporary work agency, either on a definite or indefinite nature, whole-time or part-time basis.

What do we mean by Outsourcing Agencies?

- Agencies who enter into contracts of employment or employment relationships with employees and who assigns, whether on a regular or on an irregular basis, the employees to user undertakings to work there temporarily, by being physically present at the premises of the user undertaking or working remotely, under the supervision, direction and control of the outsourcing agency, whether or not such activity is the main or ancillary activity of the outsourcing agency;

What are the main differences?

- The applicants are not employed with the employment agencies but with the employer/company who is using the service of the employment agency. There is no employment or contractual relationship between the worker and the employment agency.
- With regards to temporary work agencies and outsourcing agencies, the agency workers are directly employed and paid by the agencies. There is a contractual and employment relationship between both parties.

What is the purpose of the new changes in these regulations?

- The aim of the new changes is to:
 - regulate temping and outsourcing agencies
 - establish clear procedures and licence conditions
 - ensure that qualified and competent individuals are committed to this endeavour.

These regulations shall come into force on the 1st April 2024.

Who is exempted from these licences?

These regulations shall not apply to:

- Employers who carry out any recruitment processes in own undertakings.
- Any recruitment on behalf of any employer whose identity is clearly specified in an advertisement inviting applicants for employment.
- Any outsourcing agencies providing professional services by warranted professionals, technical services in relation to the installation, maintenance and repair of equipment and machinery, and surveying services in relation to machinery and vessels.

What happens to existing recruitment licences?

- Employment agencies currently providing recruitment of persons who are in possession of a valid licence may continue to perform such activities as authorised under their existing licence conditions until such existing licence expires.

What is needed to apply for a license?

- Premises
- Notice of Intention
- In the case of a natural person, the name, address and a legally valid identification document number.
- In the case of a legal person, the name of that legal person, its registered address and the registration number.
- The VAT registration number and Income Tax registration number of the applicant.

What do I need for the application?

- In the case of a legal person a good standing certificate in respect of the applicant issued by the Malta Business Registry, not earlier than one (1) month from the date of application.
- The address of the place where the activity is proposed to be carried out including a copy of the permit showing that the premises can be used for commercial purposes.
- Detailed information about the activities to be carried out.
- A recent tax compliance certificate not dated earlier than one (1) month prior to the date of application, issued by the Commissioner for Tax and Customs
- JobsPlus List in case of Employment Agencies

Bank Guarantee

- An application for a licence for Temporary work services and Outsourcing services shall be accompanied by evidence that the applicant shall be able to provide a bank guarantee of €20,000 and a sum equivalent to two percent (2%) of the total annual payroll, up to a max of €300,000.
- In the case of agencies employing less than 20 employees a bank guarantee of €20,000 shall apply.

Bank guarantee

- Any employee whose employment is terminated by a temporary work agency or outsourcing agency because of the revocation or non-renewal of a licence is eligible for the guarantee fund.
- In the case that the temporary work agency or outsourcing agency has no longer the intention to carry on with any activities requiring such licence in terms of these regulations, and that all obligations under the licence and these regulations have been met, the bank guarantee shall be released within three (3) months from the notification of the Director of the DIER.

The Competent Person

- The employment agency must employ a competent person on full-time basis to manage the employment agency. In addition, the competent person is allowed to occupy such position with one (1) employment agency only.
- If the competent person cannot fulfil such position anymore, the employment agency can appoint a new one upon approval of the Director of the DIER subject to the same criteria established for the competent person in these regulations.

Competent person

A competent person shall be:

- A Maltese citizen or someone who is entitled to equal treatment to Maltese citizens residing in Malta;
- Have not less than six (6) years experience in human resources or have not less than three (3) years experience in human resources and be in possession of a University degree that is relevant to management;
- Provide a reference letter from a warranted professional or their previous employer which must include an attestation of good moral character and in the case of the letter being provided by their previous employer, of the relevant experience in human resources.

How much will it cost to apply for a licence?

- The cost for a licence for Temporary work services and Outsourcing services is €3,000 and a fee €1,500 is to be paid with every application for the renewal of the licence.
- Same rates apply for the licence of Recruitment services.
- Fees shall not be refunded to the applicant if the application or any renewal is refused or revoked.

Revoke an application or a renewal of a licence.

- a) Failure to comply with the regulations and a period of 30 days for rectification.
- b) Lack of compatibility of applicant's activities.
- c) Lack of clean record of tax compliance.
- d) Based on a full vetting process undertaken by the Malta Police Force, the applicant, competent person or directors are deemed not to be individuals of a fit and proper person.
- e) Convicted person and a period of 30 days for rectification.
- f) If convicted in respect of the violation of any law relating to employment for a second time.

Revoke an application or a renewal of a licence.

- g) The applicant, competent person or directors have been convicted by a Court in respect of the breach of any law relating to immigration including human trafficking.
- h) Charging of fees from applicants.
- j) Failure to inform the Director of any changes.
- k) Inaccurate, false or misleading information.
- l) Failure to have a bank guarantee.

What happens if a licence is revoked or not renewed?

- On revocation or non-renewal, the following information shall be publicly announced by the Department:
 - a) the name of the person or persons sanctioned
 - b) the particular breach of the provisions of these regulations
 - c) the penalty or measure imposed

In addition, such information shall be shared with the: Department of Contracts, Identita' and the Malta Police Force.

What are the consequences of any infringement of these regulations?

- If convicted of an infringement: a fine of not less than five thousand (€5,000) but not exceeding seven thousand Euro (€7,000).
- If the offence consists of the operation of an employment agency without being in possession of a valid licence under these regulations, any person found guilty shall be liable to a fine of not less than twenty-five thousand Euros (EUR 25,000) but not more than thirty thousand Euros (EUR 30,000).

Questions?