Employment Agency Law

Extracts from Article 11 of the General Business Law

§ 180. Action on bond

All claims or sums brought in any action against any licensed person may be demanded and enforced in such action by the injured party or any assignee of such licensed person, as if such licensed person were in possession of such sums. The same amount of damages or interest, and the costs of the action, may be recovered against such licensed person, as if such licensed person were personally liable for such sums. The amount of damages henceforth awarded shall be limited to the amount of such sums, and shall not include interest or any other charges. Where such sums have not been paid, interest shall accrue at the rate of ten per cent per annum from the date of demand, and the court shall have jurisdiction to enforce the payment of the same, and shall fix the amount of such interest and the costs of the action, and shall enter judgment against such licensed person for the amount so determined, and shall also order the costs of the action to be paid by such licensed person.

§ 181. Contracts, statements of terms and conditions, and receipts

Any contract for employment must be in writing, and the employee shall be given a copy of such contract.

1. A true copy of every contract entered into by any employee shall be provided to a job applicant before any job placement.

2. For class “C” theatrical employment:
   - A true copy of every contract entered into with an artist shall be provided to the job applicant before any job placement.
   - The terms and conditions shall be provided in plain and commonly understood language which shall aid the job applicant in understanding what the employer will require or accept from the artist.

3. For all other employment, including classes “A,” “B,” and “C” theatrical employment, contracts shall be made, but need not be in writing, and the terms and conditions shall be provided to the job applicant before any job placement.

4. A receipt for any fee, deposit, consideration, or payment which such employer receives from any applicant shall be provided to the applicant, stating the amount thereof and the purpose for which the same is charged.

§ 185. Fees

1. Circumstances permitting fee
   - An employment agency shall not charge or accept a fee or other consideration unless in accordance with the provisions of this article.
   - Where the employee has been responsible for referring such job applicant to an employer or has rendered any service or service thereof, the employment agency shall not charge or accept a fee or other consideration unless in accordance with the provisions of this article.

2. Size of fee; payment schedule
   - The terms and conditions of a contract shall be in writing, and a copy of such contract shall be provided to the applicant.
   - Where such contract is in blank, a copy of the provisions of this article shall be attached to the contract.

3. For all other employment, the gross fee charged to such employee and the employer each shall not exceed ten percent of the salary or wages, or such fees as may be agreed upon.

4. Types of employment
   - For the purpose of the payment of a commission, the term “employment” shall be considered to include the following:
     - Class “A” - professional employment, all employment outside the continental United States, and all employment not included in the continental United States, and all employment not included in class “B” or “C” employment agency.
     - Class “B” - commercial, clerical, executive, administrative and professional employment, which employment renders the continental United States, and all employment not included in class “A” or “C” employment.
     - Class “C” - theatrical employment.

5. Commission on fees
   - An employment agency shall not charge or accept a fee or other consideration for any employment.

6. Fee ceiling
   - For a placement in class “A” employment the gross fee after an agency represents the applicant to an employer shall not exceed the maximum fee allowed by section one hundred eighty-six of this article.

7. Fee ceilings
   - For any other employment, the gross fee charged to such employee and the employer each shall not exceed ten percent of the salary or wages.

8. Fee ceiling
   - For a placement in class “B” employment the gross fee charged to such employee and the employer each shall not exceed ten percent of the salary or wages.

9. Fee ceiling
   - For a placement in class “C” employment the gross fee shall not exceed, for each engagement, the following:
     - Class “C” employment agency shall not charge or accept a fee or other consideration unless in accordance with the provisions of this article.

10. Notwithstanding any other provision of law to the contrary, no fee may be charged or collected for services rendered by an employment agency for the placement of a person for employment in any occupation, occupation or employment agency.

§ 186. Return of fees

1. Excessive fees
   - Any employment agency which collects, receives or demands any other payment from any person in connection with the placement or employment of any person in any occupation, occupation or employment agency.

2. Failure to report
   - If any employment agency does not comply with the provisions of this article, the commissioner shall have the power to order the employment agency to show cause why such employment agency should not be subject to the penalties provided for by this article.

3. Termination without employer’s fault
   - If any employment agency does not comply with the provisions of this article, the commissioner shall have the power to order the employment agency to show cause why such employment agency should not be subject to the penalties provided for by this article.

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   - If any employment agency does not comply with the provisions of this article, the commissioner shall have the power to order the employment agency to show cause why such employment agency should not be subject to the penalties provided for by this article.

5. Minimum Wage
   - You must be referred only to jobs that are current and available at pay at least the minimum wage as set by New York State and federal law. Visit nyc.gov/dcwp and labor.ny.gov.

6. Complaints
   - Contact 311 or visit nyc.gov/dcwp to file a complaint with DCWP.

7. Employment Agencies in NYC must hold a Department of Consumer and Worker Protection (DCWP) license, and you must follow the law. Look for the agency’s DCWP license.