

PRIVATE SECURITY SERVICE ACT

Act 5 of 2004 – 1 July 2008

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PRIVATE SECURITY SERVICE ACT

1. Short title

This Act may be cited as the Private Security Service Act.

2. Interpretation

In this Act—

“badge” means a badge issued to a security guard under section 7 (4);

“certificate” means a certificate of registration issued to a security guard under section 7 (4);

“Commissioner” means the Commissioner of Police;

“licence” means a licence issued under section 4;

“licensee” means a person issued with a licence under section 4;

“Minister” means the Minister to whom responsibility for the subject of home affairs is assigned;

“Police Force” has the same meaning as in section 111 of the Constitution;

“private security service” means the business of providing, for remuneration or reward, a security service, the services of a security guard, and the secure transportation and delivery of property;

“security guard”—

- (a) means a person employed by a private security service who guards, patrols or provides any other security service for the purpose of protecting a person or property; and
- (b) includes, for the purposes of section 3 (2), a person who is employed permanently or on a casual or contractual basis, by the licensee, owner or operator of a nightclub, discothèque, private club, restaurant, café, pub or bar, or by any licensee under the Gambling Regulatory Authority Act, for guarding, patrolling or providing any other security service for the purpose of protecting a person or property;

“security service” includes the provision of security through electronic means or any other device.

[S. 2 amended by s. 3 of Act 2 of 2008 w.e.f. 1 July 2008.]

3. Application of Act

(1) Subject to subsection (2), this Act shall not apply to a person who—

- (a) is employed by another person for the purpose of protecting that other person or his property; and
- (b) is not employed by a private security service.

(2) Sections 2, 7, 8, 10, 11, 12 (1) and (2), 13 (2), (3) and (4), 14, 15, 16, 17, 18 (2), (3), (4) and (6) and 19 shall apply to a private security guard as defined in paragraph (b) of the definition of “security guard” in section 2, and to any certificate issued to him.

[S. 3 amended by s. 4 of Act 2 of 2008 w.e.f. 1 July 2008.]

4. Private security services to be licensed

(1) Any person who wishes to operate a private security service shall make an application for a licence to the Commissioner in such form as may be approved by the Commissioner and furnish such information as the Commissioner may require.

(2) On receipt of an application under subsection (1), the Commissioner shall—

- (a) cause notice thereof to be published in the *Gazette* and, for 3 consecutive days, in not less than 2 daily newspapers; and
- (b) invite all interested persons, who so wish, to lodge with the Commissioner such objections as they may have against the application.

(3) Any person who wishes to object to an application shall, not later than 21 days after the last date of the publication specified in subsection (2), lodge his objection in writing with the Commissioner.

(4) The Commissioner may require an applicant to furnish additional information and may make such investigations, and conduct such examinations, as he considers necessary respecting the character, financial position and competence of the applicant.

(5) The Commissioner shall, in determining whether to grant an application for a licence, have regard, *inter alia*, to—

- (a) any objection made under subsection (3); and
- (b) whether or not the applicant is disqualified under subsection (6).

(6) The Commissioner may refuse to issue a licence where—

- (a) he reasonably believes that the applicant is not a fit and proper person to be granted a licence;
- (b) the applicant is a company, a partnership or an association and the Commissioner reasonably believes that, in view of the past and present conduct of its members, officers or directors, it is not a fit and proper entity to be granted a licence;
- (c) the applicant, or the person who will manage the private security service, does not have the experience and training that, in the opinion of the Commissioner, are necessary to operate such a service;
- (d) the facilities proposed for the operation of the private security service are inadequate;
- (e) the applicant, or where the applicant is a company, a partnership or an association, a member, officer or director thereof, has been convicted in Mauritius or elsewhere of an offence involving fraud and dishonesty;
- (f) the applicant is medically unfit to operate a private security service; or
- (g) the applicant is under the age of 18.

(7) Where the Commissioner grants the application, he shall issue, on payment of the prescribed fee and upon the applicant furnishing the guarantee required under section 6, a licence in the prescribed form and subject to such conditions as he may deem fit, which may include a requirement—

- (a) for the training of security guards;
- (b) that the licensee takes out the requisite firearm licence under the Firearms Act;
- (c) as to the type of uniform to be worn by security guards.

[S. 4 amended by s. 49 (1) of Act 2 of 2006 w.e.f. 1 September 2007.]

5. Duties of licensees

Every licensee shall—

- (a) display a copy of his licence in a conspicuous place in the office of the licensed premises;

- (b) where the licensee has more than one office, display a copy of the licence in his main office and every sub-office;
- (c) display in a conspicuous place outside each of his offices a sign-board stating the name of the licensee and the words "LICENSED UNDER THE PRIVATE SECURITY SERVICE ACT";
- (d) notify the Commissioner in writing within 7 days of—
 - (i) any change in the address of his office, or sub-office, as the case may be;
 - (ii) any change in its officers, directors or members, where the licensee is a company, a partnership or an association; or
 - (iii) the recruitment or termination of employment by him of a security guard;
- (e) keep such books, documents or records as may reasonably be required by the Commissioner and ensure that such books, documents or records are readily accessible.

6. Security

(1) The guarantee required under section 4 (7) shall be furnished to, and maintained with, the Accountant-General, shall be in the sum of 3 million rupees or such other sum as may be prescribed and shall be furnished—

- (a) by deposit in cash;
- (b) by a guarantee issued by a bank or insurance company registered in Mauritius; or
- (c) in such other form as may be approved by the Minister.

(2) The guarantee shall be applied towards the payment of any amount, by way of compensation, damages or otherwise, to which a customer is entitled in virtue of a judgment of a Court, an award or a binding agreement.

(3) Where a licensee ceases to provide private security services, he may apply to the Commissioner for the discharge of the guarantee.

(4) On receipt of an application under subsection (3), the Commissioner shall, at the expense of the applicant, by notice published in the *Gazette* and 2 daily newspapers, require any person who may have any claim against the licensee to notify the Accountant-General of the nature and amount of his claim within 3 months of the last publication.

(5) The guarantee shall be discharged—

- (a) where no claim has been received within the time limit specified in subsection (4);
- (b) after disposal of any claim made under subsection (2) or (4).

7. Security guards to be registered

(1) Any person who wishes to perform the duties of a security guard shall make an application for a certificate of registration to the Commissioner in such form as may be approved by the Commissioner.

(2) The Commissioner may require an applicant to furnish such additional information, and make such investigations and conduct such examinations as he considers necessary respecting the character and competence of the applicant.

(3) The Commissioner may refuse to register an applicant who—

- (a) is under the age of 18;
- (b) is medically unfit;
- (c) does not have the appropriate training and skills necessary for him to perform the duties of a security guard;
- (d) has made, in the application for registration, a statement containing information which is false in any material particular;
- (e) has been convicted, in Mauritius or elsewhere, of an offence involving fraud and dishonesty, or of any other offence punishable by imprisonment;
- (f) is otherwise not a fit and proper person to be registered.

(4) Where the Commissioner is satisfied that the applicant meets the requirements of this section, he may, subject to such conditions as he thinks fit to impose, issue a certificate of registration and a badge to the applicant on payment of the prescribed fee.

8. Duration and renewal licences and certificates

(1) A licence or certificate granted under this Act shall, subject to subsection (2), be valid for a period of one year.

(2) Where a licensee or the holder of a certificate wishes to renew the licence or certificate, he shall apply to the Commissioner for renewal in such form as may be approved by the latter, not later than 21 days before the expiry of the licence or certificate.

(3) A licensee applying for the renewal of his licence shall submit to the Commissioner a return showing—

- (a) the name and address of every security guard who was employed by him during the preceding year;
- (b) the address of the office, or main office and sub-offices, as the case may be, where he proposes to continue to operate his private security service;
- (c) the services offered during the preceding year; and
- (d) such other information as the Commissioner may require.

(4) Where an application for renewal is made after the expiry of the licence or certificate, but within 15 days after the expiry, the Commissioner may renew the licence or certificate upon payment by the holder of the licence or certificate of a surcharge of 50 per cent in addition to the prescribed renewal fee.

(5) A licence or certificate shall lapse if an application for its renewal is not made within 15 days of the expiry of the licence or certificate.

(6) The Commissioner may, after considering an application under subsection (2), renew a licence or certificate—

- (a) where the licensee or the holder of a certificate is still qualified to hold a licence or certificate; and
- (b) on payment of such fee as may be prescribed.

9. Cessation of business by licensees

(1) Where a licensee does not intend to renew his licence, he shall—

- (a) notify the Commissioner of such intention at least 3 months before the expiry of his licence; and
- (b) surrender his licence to the Commissioner within 15 days after its expiry.

(2) Where during the currency of a licence, the licensee ceases to provide a private security service authorised by the licence, he shall notify the Commissioner and return the licence to him within 5 days for cancellation.

(3) On receipt of a notification under this section, the Commissioner shall cause a notice thereof to be published in the *Gazette* and, for 3 consecutive days, in not less than 2 daily newspapers.

9A. Duty to notify Commissioner

Where the licensee, owner or operator of a nightclub, discothèque, private club, restaurant, café, pub or bar, or a licensee under the Gambling Regulatory Authority Act, recruits or terminates the employment of a security guard, he shall notify the Commissioner in writing within 7 days of the recruitment or the termination of employment.

[S. 9A inserted by s. 5 of Act 2 of 2008 w.e.f. 1 July 2008.]

9B. Uniform of security guards

Where the Commissioner issues a certificate of registration to a security guard employed by the licensee of a nightclub, discothèque, private club, restaurant, café, pub or bar, or by a licensee under the Gambling Regulatory Authority Act, he may specify the type of uniform to be worn by the security guard.

[S. 9B inserted by s. 5 of Act 2 of 2008 w.e.f. 1 July 2008.]

10. Registers

(1) The Commissioner shall establish and maintain a register of persons licensed or granted a certificate and badge under this Act.

(2) The register shall contain particulars of every licensee and person holding a certificate and badge and shall include—

- (a) his name;
- (b) his address, or the address of his office, or main office and sub-offices, as the case may be, in the case of a licensee;

- (c) the expiry date of the licence and certificate;
- (d) the terms and conditions of the licence and certificate; and
- (e) such other particulars as the Commissioner thinks fit.

11. Identification of security guards

Every security guard shall, while on duty—

- (a) wear his badge conspicuously on his uniform; and
- (b) carry his certificate and, on request from a police officer or any other person acting in the lawful exercise of his duties, produce his certificate for inspection.

12. Duplicate and temporary licences, certificates or badges

(1) Where a licence, certificate or badge is lost, destroyed or defaced, the licensee or the security guard may apply in writing to the Commissioner for a duplicate licence, certificate or badge, as the case may be.

(2) Where the Commissioner is satisfied as to the genuineness of the circumstances of the loss, destruction or defacement, the Commissioner may issue a duplicate licence, certificate or badge on payment of such fee as may be prescribed.

(3) Where a licensee dies, or in the case of a company, is wound up, the Commissioner may grant a temporary licence to such person for such period as he deems appropriate.

13. Cancellation or suspension of licences and certificates

(1) The Commissioner may, at any time, cancel or suspend a licence where—

- (a) the person, or in the case of a company, a partnership or an association, one of its members, directors or officers has become disqualified under section 4 (6) from obtaining a licence;
- (b) in the case of a partnership, one of the partners withdraws from the partnership;
- (c) in the case of a company, the company is no longer qualified to be registered under the Companies Act;
- (d) the licensee does not comply with the requirements of this Act or any regulations made under the Act;
- (e) the licensee breaches any condition of the licence;
- (f) the licensee has knowingly made or caused to be made any false or misleading statement in his application for the licence;
- (g) the licence has been obtained by fraud or misrepresentation; or
- (h) he would have been entitled to refuse to grant a licence under section 4.

(2) The Commissioner may, at any time, cancel or suspend a certificate granted under section 7 where the security guard—

- (a) becomes disqualified under that section from obtaining a certificate;
- (b) does not comply with the requirements of this Act or any regulations made under the Act; or
- (c) was not at the time of his registration qualified to be registered.

(3) Where a licence or a certificate has been cancelled or suspended pursuant to subsection (1) or (2), the Commissioner shall—

- (a) notify the licensee or certificate holder in writing, requesting him to surrender the licence, or certificate and badge, as the case may be, within 5 days of receipt of the notice;
- (b) in the case of a licensee, cause a notice thereof to be published in the *Gazette* and, for 3 consecutive days, in not less than 2 daily newspapers.

(4) Upon receiving a notice under subsection (3), the licensee or the certificate holder, as the case may be, shall surrender the licence, or certificate and badge, to the Commissioner within the specified period.

14. Application for restoration of licences or certificates

(1) A private security service or a security guard whose licence or certificate has been suspended or cancelled under section 13 may apply to the Commissioner for the restoration of the licence or certificate.

(2) The Commissioner may, after such inquiry as he considers appropriate—

- (a) approve the application for restoration on such terms and conditions as he deems fit; or
- (b) refuse the application.

15. Appeal Board

(1) Where a person is aggrieved by the—

- (a) refusal of the Commissioner to grant a licence or a certificate; or
- (b) suspension or cancellation of his licence or certificate, or the refusal by the Commissioner to restore the licence or certificate,

he may appeal to the Appeal Board appointed under subsection (3).

(2) The appellant shall, within 21 days of the notification to him of the decision of the Commissioner—

- (a) submit to the Minister; and
- (b) serve on the Commissioner,

a written notice of appeal stating the grounds therefor.

(3) The Minister shall forthwith appoint an Appeal Board, on an *ad hoc* basis, for the purpose of considering an appeal made under subsection (1) and refer the notice of appeal with the grounds to the Appeal Board.

(4) The Appeal Board shall consist of—

- (a) a Chairperson, who shall be a barrister of not less than 10 years' standing;
- (b) 2 public officers not below the rank of Principal Assistant Secretary.

(5) After considering the appeal and affording the appellant an oral hearing, where necessary, the Appeal Board may confirm, set aside or vary the decision of the Commissioner, setting down in writing the reasons for its decision.

(6) The Appeal Board shall communicate its decision to the appellant and the Commissioner within 7 days thereof.

16. Training of licensees and security guards

Subject to any other enactment and to the approval of the Commissioner on such terms and conditions as he thinks fit, any person may, for the purposes of this Act, conduct training courses for licensees and security guards.

[S. 16 repealed and replaced by s. 5A of Act 2 of 2008 w.e.f. 1 July 2008.]

17. Powers of Commissioner

The Commissioner shall—

- (a) keep under review the provision of private security services or of private security guards;
- (b) for the purpose of protecting the public, monitor the activities and effectiveness of persons carrying on the business of providing private security services or of private security guards; and
- (c) carry such inspections of the activities of private security services or of private security guards, as he considers necessary.

[S. 17 amended by s. 6 of Act 2 of 2008 w.e.f. 1 July 2008.]

18. Offences

(1) No person shall operate a private security service unless he is the holder of a licence.

(2) No licensee or security guard shall hold himself out in any manner as a police officer, or as providing services, or performing duties connected with the Police Force.

(3) (a) No person shall employ another person as a security guard, unless the latter is the holder of a certificate.

(b) No owner, operator or licensee, referred to at paragraph (b) of the definition of “security guard” in section 2, shall require or cause any person on his employment to perform the duties of a security guard, unless the latter is the holder of a certificate.

(4) No person shall perform the duties of security guard for a private security service or in a nightclub, discothèque, private club, restaurant, café, pub or bar, and for a licensee under the Gambling Regulatory Authority Act, unless he holds a certificate issued by the Commissioner.

(5) No person shall wear, or have in his possession, a uniform approved for a private security service, unless he is registered as a security guard for that private security service.

(5A) No person shall perform his duties as a security guard, unless he wears such uniform as may have been specified by the Commissioner.

(6) Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 5 years.

[S. 18 amended by s. 7 of Act 2 of 2008 w.e.f. 1 July 2008.]

19. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for—

- (a) the payment of fees and levying of charges;
- (b) the criteria for the setting up and management of, and recruitment of personnel by, private security services;
- (c) the standards to be maintained by private security services; and
- (d) codes of conduct and guidelines for private security services and security guards.

20. – 22. —
