

ANTIGUA AND BARBUDA

THE PRIVATE SECURITY REGISTRATION ACT 2006

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ANTIGUA AND BARBUDA

THE PRIVATE SECURITY REGISTRATION ACT 2006

NO. OF 2006

A BILL FOR

AN ACT to provide for the licensing and regulation of private security agencies, private investigators and independent private security providers and for incidental and related matters.

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART 1

PRELIMINARY

1. This Act may be cited as the Private Security Registration Act, 2006. Short title
2. In this Act, unless the context otherwise requires— Interpretation
 - “Commissioner” means the Commissioner of Police;
 - “Council” means the National Security Council to be established under the National Security Act;
 - “employer” means the owner or manager of a private security agency;
 - “independent private security provider” means an individual providing private security services on a contractual basis;
 - “Minister” means the minister responsible for National Security;
 - “Police Service” means the Police Service established under the Police Act; Cap 330
 - “precept” means a certificate issued under the hand of the Commissioner authorising the security guard named therein to act as a constable;
 - “precepted security guard” means a security guard to whom a precept has been issued;
 - “private investigator” means a person who performs, on a contractual basis, work involving the search for evidence, facts or information, including surveillance services;
 - “private security agency” or “agency” means a sole trader, firm, partnership or body corporate registered under the Companies Act, 1996,

or the Business laws of Antigua and Barbuda which employs security guards for the protection of persons and property, including its employees and property or the installation of electronic security systems and monitoring services and is approved for that purpose by the Council;

“security guard” or “guard” means a person who is employed by an agency for the protection of persons and property or the installation and monitoring of electronic security systems;

“security service provider” means a private security agency, a private investigator or an independent private security provider.

PART 2

LICENCES

3. (1) Subject to subsection (2) no person shall, after the commencement of this Act, operate a private security agency or act as a private investigator or an independent private security provider without first obtaining a licence from the Council so to do.

Prohibition on operation without a licence

(2) The owner of an agency, a private investigator or a independent private security provider operating immediately before the commencement of this Act shall, within thirty days from the date of commencement of this Act, apply for a licence.

(3) Subject to subsection (2) an agency, a private investigator or an independent private security provider may continue to operate until the application is determined.

(4) A licence shall be issued subject to conditions stipulated therein.

(5) The persons listed in the Schedule shall be exempt from the provisions of this Act to the extent specified in the Schedule.

4. (1) An application for the issue of a licence to operate as a security service provider shall be made to the Council on the prescribed form and shall be accompanied by—

Application for issue of a licence

- (a) a valid Police Certificate of Character, and where the applicant is a body corporate, a valid Police Certificate of Character in respect of each Director;
- (b) a certified copy of the Certificate of Incorporation where the applicant is a body corporate and certified copies of other documents issued by the Companies’ Registry in respect of the applicant’s incorporation;
- (c) where the applicant is not a body corporate a certified copy of the Certificate of Registration under the relevant Business law;

- (d) a copy of the certificate of registration under the Income Tax Act or the Personal Income Tax Act, 2005, as applicable. Cap 212
- (e) in the case of an agency evidence that the applicant is registered as an employer under the Social Security Act and that there are no outstanding amounts payable under that Act by the applicant; and Cap 408
- (f) in the case of a private investigator or an independent private security provider proof that the applicant-
 - (i) is a citizen or resident of Antigua and Barbuda;
 - (ii) is over eighteen years of age;
 - (iii) is of sound health, as evidenced by a certificate issued by a registered medical practitioner; and
 - (iv) has passed a drug test for any of the controlled drugs listed in the First Schedule to the Misuse of Drugs Act. Cap 283

(2) In the case of an agency the Council may grant conditional approval to the applicant for a period not exceeding sixty days pending the applicant's submission of —

- (a) a certificate from an insurance company that the applicant has a valid public liability insurance policy issued by that insurance company, with coverage for an amount of not less than hundred thousand dollars, such insurance coverage to include liability for damages caused by or arising out of a security guard's execution of his duty or any act of negligence on his part in the execution of his duty; and
- (b) a certificate from an insurance company that there is in force in relation to every security guard employed by the applicant, a policy of insurance issued by that insurance company insuring or indemnifying the applicant against the maximum amount of its potential liability in accordance with any written law, in respect of any injury sustained by, or death of, a security guard in the discharge of his duties.

(3) In the case of a private investigator or independent private security provider the Council may grant conditional approval to the applicant for a period not exceeding sixty days pending the applicant's submission of a certificate from an insurance company that the applicant has a valid public liability insurance policy issued by that insurance company, with coverage for an amount of not less than one hundred thousand dollars, such insurance coverage to include liability for damages caused by or arising out of a private investigator's or an independent private security provider's execution of his duty or any act of negligence on his part in the execution of his duty.

(4) Where a policy of insurance is cancelled, it shall be the duty of the insurance company to notify the Council within thirty days of the date of cancellation

(5) An insurance company that fails to notify the Council shall be liable on summary conviction to a fine of one hundred thousand dollars and the matter shall also be referred to the Registrar of Insurance for such action as the Registrar deems appropriate.

5. (1) A licence shall be renewable every two years from its date of issue. Application for renewal of a licence

(2) An application for the renewal of a licence to operate as a security service provider shall be made to the Council in the manner prescribed by section 4 not less than two months prior to the expiry date of the existing licence.

(3) Where an application for renewal is made in accordance with subsection (2), the validity of the licence shall continue until the application is determined.

(4) Where an application for renewal of a licence is not made in accordance with the provisions of subsection (2), the licence shall lapse on the expiry date and until such licence is renewed, the security service provider shall cease all operations.

6. (1) Where the Council refuses to issue or renew a licence, it shall inform the applicant, giving the reasons therefor, in writing. Refusal to grant or renew licence

(2) The Council may refuse to issue or renew the licence where the applicant does not meet the requirements of this Act or in any case where the Council is satisfied that the applicant is not a fit and proper agency or person to be granted a licence.

7. On approval of an application for a licence or renewal of a licence the applicant shall pay a licence fee as prescribed. Licence fee

8. (1) Upon receiving proof of payment of the licence fee, the Council shall issue a licence to the applicant and in the case of a private investigator or independent private security provider the Council shall also issue a registration card. Licence to be issued by Council

(2) The licence shall be in the form prescribed and shall be displayed in public view .

(2) The registration card shall be in the form prescribed and shall be carried at all times on the person when on duty.

9. (1) Subject to subsection (3), the Council may authorise, in writing, a police officer of the rank of Inspector or above (hereinafter referred to as “the authorised officer”), to enter into the business premises of a security service provider at any time, with the consent of the security service provider, and inspect or search the business premises and vehicles, examine books, records and other documents and interview the owner of the security service provider, security guards and other members of staff for the purpose of determining whether there has been a violation of this Act or any other written law. Inspection of premises

(2) Where, during the course of the inspection or search it appears to the authorised officer that there has been a violation of the Act or any other written law, he may seize and take away any of the books, records, documents, papers or things and retain them until they are produced in any proceedings, but where such books, records, documents, papers or things are necessary for the continued operation of the agency, the authorised officer shall be required to make copies of any books, records, documents, papers or things and return the originals to the agency.

(3) Where it is shown to the magistrate, on sworn information, in writing, that—

- (a) admission to any agency has been refused or that an application for admission would defeat the object of entry; and
- (b) there is reasonable ground for entry into the premises for the purpose of an inspection or search, the magistrate may, by warrant under his hand, authorise entry.

(4) Every warrant issued under this section shall continue in force until the purpose for which the entry is required has been satisfied.

(5) The authorised officer may inspect or search, if necessary with the assistance of police officers, any building, vehicle, receptacle or place for books, records, documents, papers or things which may afford evidence of a violation of any provision of this Act or any other written law.

(6) A person who—

- (a) hinders, molests or interferes with an authorised officer in doing anything that he is authorised by this section to do or attempts to hinder, molest or interfere with an authorised officer in doing any such thing; and
- (b) any person who, unless he is reasonably unable to do so, fails or refuses to do anything he is required under this section to do, is liable on summary conviction to a fine of ten thousand dollars and imprisonment for three years.

10. (1) Where, an inspection conducted pursuant to the provisions of section 9, reveals evidence of a contravention of this Act or any other written law whereby charges are laid against the security service provider, a security guard, or other member of staff, the Commissioner shall submit a written report to the Council within fourteen days of charges being laid.

Suspension of licence

(2) Upon such report being made, the Council shall give the security service provider the opportunity of being heard and may, if the Council deems such action to be reasonable in the circumstances, suspend the licence and the security service provider shall cease operations forthwith.

11. A person who operates as a security service provider without a licence or after a licence has been suspended commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for five years.

Operating without a licence

PART 3

SECURITY GUARDS

12. (1) A person who—

Qualifications for employment of security guards

- (a) is a citizen or resident of Antigua and Barbuda;
- (b) is over eighteen years of age;
- (c) is of sound health, as evidenced by a certificate issued by a registered medical practitioner;
- (d) passes a drug test for any of the controlled drugs listed in the First Schedule to the Misuse of Drugs Act;
- (e) is of good character, as evidenced by a valid Police Certificate of Character from the country or countries of residence for the preceding 10 years; and
- (f) successfully completes the programme of training approved by the Commissioner,

Cap 283

shall be eligible for employment as a security guard.

(2) The eligibility requirements for employment as a security guard may be amended from time to time, by the Council.

13. (1) An application for a precept for a security guard shall be made to the Commissioner by an employer on the form prescribed and on payment by the employer, of the prescribed fee.

Application for precept

(2) The application shall be accompanied by evidence that the security guard has—

- (a) satisfied the requirements of section 12(1);

- (b) been employed by the agency for not less than six months;
and
- (c) successfully completed the precept examination as administered by the Commissioner.

14. (1) Upon receipt of the application in accordance with section 13, the Commissioner may issue a precept to the security guard subject to any conditions stipulated therein. Issue of a precept

(2) A precept shall be issued in relation to the agency employing the security guard and is not transferable.

(3) The grant and revocation of a precept shall be at the sole discretion of the Commissioner.

15. (1) Where a precept has been issued to a security guard, the employer may apply to the Commissioner for a Firearm User's Employee's Certificate in the name of the security guard on payment, by the employer, of the prescribed fee. Firearm user's
Employee
Certificate

(2) A Firearm User's Employee's Certificate is renewable annually upon application being made to the Commissioner and on payment of the prescribed fee.

(3) Where an application for renewal of a Firearm User's Employee's Certificate is received more than two months prior to the expiry date of the existing certificate, the validity of that certificate shall continue until the application is determined. Cap 171

(4) Subject to subsections (2) and (3) all other matters pertaining to firearms shall be governed by the provisions of the Firearms Act.

16. (1) A precepted security guard, while engaged in the performance of his duties and in respect only of those persons and property for which he is responsible, shall have such power, authority, privilege and immunity and be liable for his actions in the same manner, as a constable in the Police Service. Powers of
precepted guards

(2) Subject to the general order and direction of the Council, the Commissioner shall have the supreme command and superintendence over a precepted security guard.

17. (1) A security guard shall be provided with a badge, baton and manual describing the powers and duties of a security guard. Equipment

(2) The badge shall be evidence of the position held by a security guard and shall be displayed by him when exercising the duties of his office.

PART 4
TERMINATION OF EMPLOYMENT

18. A security guard may resign his appointment on giving his employer one month's prior notice in writing of his intention to resign. Resignation
19. (1) Where the employment of a security guard is terminated, whether by resignation, dismissal or otherwise, the employer shall, within one month of such termination, so inform the Commissioner and the reason therefor. Notice of termination of employment of security guard
- (2) Any employer who fails to report the termination of employment of a security guard and the reason therefor is liable on summary conviction to a fine of five thousand dollars.
20. (1) Where the employment of a security guard is terminated, whether by resignation, dismissal or otherwise, all powers and duties vested in him as a security guard shall immediately cease, and he shall, within fourteen days thereafter, deliver to his employer any articles of appointment which may have been supplied to him for the execution of his duties. Delivering up of articles of appointment
- (2) The precept and Firearm User's Employee's Certificate in the name of the security guard shall be delivered up by the guard's former employer to the Superintendent of the Division in which the agency is located.
- (3) Any person who contravenes this section is liable on summary conviction to a fine of ten thousand dollars.
21. (1) When a security guard dies, any person in possession of any articles of appointment issued to the deceased for the execution of his duties shall, within twenty-one days after the guard's death, deliver such items to the deceased's employer or to the Superintendent of Police. Delivering up of articles of appointment of deceased security guard
- (2) Any person who, contravenes this section is liable on summary conviction of a fine of ten thousand dollars.

PART 5
MISCELLANEOUS

22. (1) Any person who—
- (a) employs as an armed or unarmed security guard any person who is not registered as such under this Act; Offences

- (b) knowingly makes any false declaration or statement of a material nature in any application made under this act;
- (c) falsely represents himself to be the holder of a valid licence or registration card issued under this Act;
- (d) knowingly hires employs or otherwise engages the services of any unlicensed security service provider; or
- (e) otherwise fails to comply with the provisions of this Act or any regulations made hereunder.

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term of two years or to both.

23. (1) A person aggrieved by any decision of the Council in respect to any decision made under this Act may, within one month from the receipt of the Council's decision, appeal to a judge in chambers whose decision is final. Appeal

24. The Minister may, by Order, subject to negative resolution of Parliament, increase the penalties contained in this Act. Amendment in respect of fines

25. Where a security guard sustains injury while in the discharge of his duty, the employer shall meet all the costs of medical attention, medical comfort and medicines, as required by law. Bodily injury to security guard

26. Any insurance benefits payable to an employer for or on behalf of a security guard shall be paid to the security guard, his beneficiary or estate, as the case may be. Insurance benefits

27. (1) No private security agency shall describe any of its guards by reference to any of the titles of the Police Force as set out in the Police Act. Use of police titles prohibited

(2) No security guard shall describe himself by reference to any of the titles of the Police Force as set out in the Police Act.

28. (1) The Minister shall, after consultation with the Council prescribe a code of conduct for security service providers which contain sufficient procedures and rules of evidence for its enforcement. Code of conduct

(2) The code of conduct is legally binding on all security service providers.

(3) The code of conduct drawn up pursuant to subsection (1) of this section shall first be published by the Minister in the *Gazette* with a notice indicating that the Minister intends to issue such a code and inviting interested persons to submit to the Minister within a stated period, but not

less than four weeks from the date of publication of the notice, any objections to or representations concerning the proposed code of conduct.

(4) Pursuant to subsection (3), if the Minister after the expiry of that period decides on any alterations of the proposed code as a result of any objections or representations, it is not necessary to publish such alterations for further comment.

(5) Subsection (4) shall apply with regard to any amendment of the code of conduct.

(6) A code of conduct comes into operation on a date to be determined by the Minister in the *Gazette*.

(7) The Minister may for the purposes of subsection (3) determine different dates for commencement in respect of different categories or classes of licences.

29. (1) The Minister may by regulations make provision for the purpose of carrying this Act into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Act. Regulations

SCHEDULE

Persons and institutions exempt for the provisions of the Act so far as it applies to their functioning as private investigators or private security guards in the course of their work

- (a) barristers or solicitors in the practice of their profession or their employees;
- (b) persons who search for and furnish information-
 - (i) as to the financial credit rating of persons,
 - (ii) to employers as to the qualifications and suitability of their employees or prospective employees, or
 - (iii) as to the qualifications and suitability of applicants for insurance and indemnity bonds,and who do not otherwise act as private investigators;
- (e) insurance adjusters and their employees licensed under the Insurance Act while acting in the usual and regular scope of their employment;

- (f) insurance companies and their employees licensed under the Insurance Act while acting in the usual and regular scope of their employment;
- (g) private investigators and security guards who are permanently employed by one employer in a business or undertaking other than the business of providing private investigators or security guards and whose work is confined to the affairs of that employer;
- (i) persons residing outside Antigua and Barbuda who are employees of private investigation or security guard agencies licensed or registered in a jurisdiction outside Antigua and Barbuda who, on behalf of an employer or client, come into Antigua and Barbuda solely for the purpose of an investigation or inquiry; and
- (j) any class of persons exempted by the regulations.

Passed the House of Representatives
this day of 2006.

Passed the Senate
this day of 2006.

Speaker

President

Clerk to the House of Representatives

Clerk to the Senate

Explanatory Memorandum

(These notes form no part of the Bill but are intended only to indicate its general purport)

The Bill seeks to regulate the licensing and operation of private security agencies and the employment of security guards by these agencies as well as the licensing and operation of private investigators and independent private security providers.

Part 1 of the Bill contains preliminary matters, most specifically the interpretation of terms used in the Bill.

Part 2 of the Bill, which comprises of clauses 3 to 11 addresses matters in respect of the application, issue and revocation of a licence. In particular: Clause 3 prohibits the operation of an agency or as a private investigator or independent private security provider without a valid licence.

Clauses 4 and 5 set out the procedure to be followed in applying for or renewing a licence.

Clause 6 confers on the Council the power to refuse to issue or renew a licence, such refusal and reasons to be in writing. In addition, this Part sets out, in clause 9, a comprehensive procedure to be followed by an authorized guard when seeking to enter and inspect the offices of an agency. Furthermore, in accordance with the provisions of clause 10, the Council may suspend a licence where an inspection has revealed a breach of this or any other written law.

Part 3 of the Bill comprises clauses 12 to 17 and proposes to regulate the appointment of security guards. In particular: Clause 12 sets out the eligibility criteria for an appointment as a security guard.

Clause 13—15 address all matters pertinent to the application and issue of a precept while clause 16 sets out the powers of precepted security guards.

Part of 4 the Bill, at clauses 18 to 21 inclusive, provides for the termination of employment of security guards.

Part 5 of the Bill, at clauses 22 to 29 inclusive, addresses certain miscellaneous matters, including offences and the power of the Minister to prescribe a Code of Conduct for all security service providers and to make regulations for giving effect to the provisions of the Bill.