

SAINT LUCIA

No. 28 of 2006

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I ASSENT

[L.S.]

MARJORIE BRATHWAITE,
Deputy Governor-General.

5th October, 2006.

SAINT LUCIA

No. 28 of 2006

AN ACT to provide for the licensing, regulation and supervision of private security businesses, the establishment of the Saint Lucia Private Security Authority and for related matters.

[On Order]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title and commencement

1.— (1) This Act may be cited as the Private Security Act 2006.

(2) This Act shall come into force on a day to be fixed by the Minister by Order published in the *Gazette*.

Interpretation

2.— (1) In this Act —

“Appeals Tribunal” means the Appeals Tribunal established pursuant to section 54;

“Authority” means The Saint Lucia Private Security Authority established pursuant to section 4;

“Board” means the Board of the Authority appointed pursuant to section 4;

“Chairperson” means the Chairperson of the Board appointed pursuant to section 4;

“Deputy Chairperson” means the Deputy Chairperson of the Board appointed pursuant to section 4;

“Executive Director” means the Executive Director of the Authority appointed pursuant to section 9;

“Fund” means the Private Security Fund established pursuant to section 23;

“licence” means a licence issued pursuant to this Act;

“licensee” means a person who holds a valid licence pursuant to this Act;

“Minister” means the Minister responsible for Internal Security;

“person” includes a body corporate or an unincorporated body;

“police officer” means a member of the Royal Saint Lucia Police Force;

“property” means any movable, immovable or intellectual property, or any right to or interest in such property;

“premises” means any site, place or location regardless of whether it is or forms part of any temporary or permanent structure, building, vessel, vehicle or aircraft;

“prescribed” means prescribed in the Regulations;

“private security business” means the provision of security services to any person for remuneration, reward, fee or benefit;

“Regulations” means Regulations made pursuant to section 55;

“Reserve Fund” means the Reserve Fund which may be established pursuant to section 23;

“Register,” means the Register kept and maintained pursuant to section 53;

“Royal Saint Lucia Police Force” means the body established as such pursuant to the Police Act, Cap. 14:01;

“security equipment” includes —

- (a) an alarm system;
- (b) a safe, vault and secured container;
- (c) a satellite tracking device, closed circuit television, electronic monitoring device and surveillance equipment;
- (d) a device used for intrusion detection, access control, bomb detection, fire detection, metal detection, x-ray inspection or for securing telephone communications;
- (e) a specialised device used to open, close or engage locking mechanisms;

“security service” includes one or more of the following -

- (a) protecting or safeguarding a person, an animal or property in any manner;
- (b) providing a service aimed at ensuring order and safety on premises used for sporting, recreational, entertainment or other similar purposes;
- (c) performing the functions of a private investigator;
- (d) providing training or instruction in security services;
- (e) installing, servicing or repairing security equipment;

- (f) performing the functions of manufacturing or producing keys including electronic keys for access control;
- (g) monitoring signals or transmissions from an electronic security system, satellite tracking device, a close circuit television, or other electronic monitoring device or surveillance equipment;
- (h) giving advice in relation to a security service or on the use of security equipment;
- (i) making a person or the services of a person available, whether directly or indirectly, for the rendering of a security service;
- (j) managing, controlling or supervising the rendering of a security service.

Application of Act

3.— (1) This Act binds the Crown.

(2) This Act does not apply in respect of any person who is employed in the capacity of police officer while and to the extent that the person is performing official duties as a police officer.

(3) The provisions of this Act and the Regulations in so far as they amount to terms and conditions of a licence are deemed to be incorporated in the licence and are in addition to the terms and conditions stated in the licence.

PART 2**SAINT LUCIA PRIVATE SECURITY AUTHORITY****Establishment of Authority**

4.— (1) There is hereby established the Saint Lucia Private Security Authority which shall be a body corporate to which section 19 of the Interpretation Act, Cap.1.06 applies.

(2) The affairs of the Authority shall be administered by a Board that subject to subsections (3) and (4) shall comprise the following five members —

- (a) a Chairperson;
- (b) a Deputy Chairperson; and

(c) three other members;

appointed by Cabinet, after consultation with the Commissioner of Police and the private security business community.

(3) The persons eligible for appointment pursuant to subsection (2) shall have high professional integrity and experience in at least one of the following areas —

- (a) security or defence;
- (b) law or law enforcement;
- (c) finance or commerce;
- (d) consumer affairs.

(4) A person shall be disqualified from being a member of the Board if that person —

- (a) holds or is beneficially interested in any stock, share, bond, debenture or other security of, or other interest in, any licensee;
- (b) has a pecuniary or other material interest in a device, appliance, machine, article, patent or patented process which is required or used by a licensee;
- (c) is declared by a court to be a bankrupt;
- (d) is declared by a court to be physically or mentally incapacitated by reason of unsoundness of mind;
- (e) has been convicted of a criminal offence except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004, No.2; or
- (f) is a member of Parliament.

(5) Notwithstanding subsection (4)(b), a member of the Board shall not be held to have a pecuniary or other material interest in a licensee by reason only of the fact that he or she is a consumer of a security service provided by the licensee for general reception.

(6) Where pursuant to section 19 a vacancy exists in the membership of the Board, Cabinet shall in accordance with this section appoint a person to fill the vacancy.

(7) Cabinet shall by Order published in the *Gazette* give notice of the names of the members of the Board as first constituted and every change in the membership of the Board.

Functions and powers of the Authority

5.— (1) The Authority shall exercise the powers given to and perform the duties imposed on the Authority pursuant to this Act or any other law in force in Saint Lucia including the following —

- (a) receive and consider applications for the grant or renewal of licences for the carrying on of private security business;
- (b) make recommendations to the Minister for the grant or refusal of applications made pursuant to paragraph (a);
- (c) consider the operation of any enactments that relate to or in any way affect the security services and make to the Minister—
 - (i) such representations with respect to matters of general concern arising in connection with the operation of those enactments; and
 - (ii) such recommendations for the extension or modification of those enactments;as the Authority thinks fit;
- (d) establish and maintain a data base of information necessary for the regulation of security services;
- (e) promote public awareness concerning security services;
- (f) identify additional research and development resources relating to security services;
- (g) determine a claim by customers against a licensee in accordance with the terms of the licence in the event that the customer and the licensee have not been able to resolve the claim;
- (h) advise the Minister on the standards, codes of practice and Regulations to be prescribed;
- (i) administer the provisions of this Act and the Regulations.

(2) Where the Authority reasonably suspects that a licensee is in breach of this Act, the Regulations or a licence, or where an allegation of breach is made to the Authority against a licensee, the Authority may conduct any investigation it considers necessary in relation to the licensee and may perform any of the following in the course of such investigation —

- (a) compel the production of documents and records in the custody or control of the licensee;
- (b) compel the appearance of an employee or officer of a licensee or any other person for the purpose of ascertaining compliance with this Act, the Regulations or the relevant licence;
- (c) inspect, examine or make copies of any document or record in the possession of the licensee relevant to the licence held by the licensee;
- (d) require verification of income and all other matters pertinent to the licence;
- (e) enter or inspect any premises for the purpose of ascertaining compliance with this Act, the Regulations or the licence; and
- (f) seize or remove any document or records relating to the licence or service for the purpose of examination and inspection.

(3) A person shall not —

- (a) hinder, obstruct, prevent or interfere with a member of the Board or a member of staff of the Authority in the exercise of a power pursuant to this section; or
- (b) fail without reasonable excuse to answer any question relating to any register, book, record or other document or any relevant matter when required to do so by a member of the Board or a member of staff of the Authority pursuant to subsection (2).

(4) A person who contravenes the provisions of subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding one year or to both.

Committees

6.— (1) The Board may, for the purpose of carrying out its functions pursuant to this Act, establish committees and delegate to such committees such of its functions as it considers necessary or expedient.

(2) The Board may appoint or arrange for the appointment of advisory committees to give advice to the Board on such matters relating to the Authority's functions as the Board may determine.

(3) The Board may appoint persons as members of a committee who are not members of the Board or who are not employees of the Authority and such persons shall hold office for such period as the Board may determine.

(4) Each committee shall keep minutes of its meetings and report to the Board.

Authority to regulate own procedure

7.— (1) Subject to this Act and to the Regulations, the Authority shall regulate its own procedure.

(2) The Board shall cause to be kept minutes of the proceedings of its meetings and of meetings of any of the committees established by it.

Seal

8.— (1) The Authority shall have an Official Seal.

(2) The affixing of the Official Seal of the Authority shall be in the presence of and witnessed by —

(a) the signature of the Chairperson or the Deputy Chairperson;
and

(b) the Executive Director.

(3) All documents, other than those required by law to be under seal, which are executed by the Board and all decisions of the Board shall be signed by —

(a) the Chairperson or any other member duly authorized in writing by the Chairperson to act on behalf of the Chairperson;
and

(b) the Executive Director.

Executive Director

9.— (1) The affairs of the Authority shall be managed by an Executive Director who shall be appointed by the Board upon such terms and conditions as it may determine.

(2) The Executive Director shall perform all the functions entrusted to him or her under this Act and shall attend all meetings of the Board unless —

- (a) the Executive Director is instructed by the chairperson of a meeting to withdraw; or
- (b) the Executive Director has obtained leave of absence or is prevented from attending for good cause.

(3) The Board may, during the absence of the Executive Director, appoint a person to act as Executive Director upon such terms and conditions as the Board may determine.

Meetings of Board

10.— (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times as the Chairperson shall determine.

(2) The Chairperson may at any time call a special meeting of the Board and shall cause a special meeting to be held within seven days of a written request for that purpose addressed to the Chairperson by any other member of the Board.

(3) The Chairperson and any other member of the Board shall be deemed to be present at a meeting of the Board if the Chairperson or the member participates by telephone, video link or satellite, and all members participating in the meeting are able to hear and to speak to each other.

(4) At a meeting of the Board —

- (a) the Chairperson shall preside;
- (b) if the Chairperson is not present, the Deputy Chairperson shall preside;
- (c) if neither the Chairperson nor the Deputy Chairperson is present, the members present shall choose one of their number to preside.

Quorum

11. A meeting of the Board is duly constituted for all purposes if at the commencement of the meeting there is a quorum of not less than three members of the Board participating in the meeting.

Voting

12.— (1) Decisions of the Board shall be taken by a majority of votes of members present and voting at the meeting.

(2) The Chairperson shall have the right to vote and in cases of equal division the Chairperson shall have the casting vote.

Additional person to attend meetings

13. The Board may co-opt any person to attend any particular meeting of the Board at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Board, but no such co-opted person shall have the right to vote.

Confidentiality and oath of secrecy

14.— (1) A member, officer or employee of the Authority shall at all times preserve and aid in preserving confidentiality with regard to all matters coming to his or her knowledge in the performance of his or her duty.

(2) Except with the written consent of the Authority or for the performance of his or her duties or under legal obligation, a member, officer or employee of the Authority shall not communicate any confidential matter to any person nor permit any person to have access to any records in the possession, custody or control of the Authority.

(3) Every member, officer or employee of the Authority shall be required to take the prescribed oath of secrecy.

Protection from liability

15. No action or other proceeding shall lie against any member, officer or employee of the Authority for or in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act.

Declaration of interest and abstention from voting

16.— (1) A member of the Board who is in any way, either directly or indirectly, interested in a matter before the Authority shall declare the nature of his or her interest at the first meeting of the Board at which it is practicable to do so and shall leave the meeting upon the matter coming up for discussion.

(2) A declaration and the departure of a member of the Board from the meeting in accordance with subsection (1) shall be noted in the minutes of the meeting.

(3) A member of the Board shall not —

- (a) vote in respect of a matter before the Board in which he or she is in any way interested, whether directly or indirectly; or
- (b) seek to influence the vote of any other member of the Board in relation to the matter.

(4) A member of the Board who fails to comply with subsection (3) commits an offence and on summary conviction is liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.

(5) Notwithstanding subsection (4), where a member of the Board fails to comply with subsection (3), the failure to comply amounts to misconduct in which case section 18 shall apply.

Duration of appointment and resignation

17.— (1) The appointment of a member of the Board shall, subject to subsection (2), be for a period of not more than three years subject to reappointment for any further period.

(2) A member of the Board may resign at any time.

Revocation

18. Cabinet may at any time, in writing, revoke the appointment of any member of the Board if, upon evidence, Cabinet is satisfied that the member is —

- (a) disqualified from being a member of the Board pursuant to section 4(4);

- (b) guilty of neglect of duty, misconduct or malfeasance;
- (c) has failed to act in the best interests of the Authority; or
- (d) disqualified on grounds of national security.

Vacancy

19. The office of a member of the Board is vacated —

- (a) upon the death of the member;
- (b) if the member becomes disqualified pursuant to section 4(4);
- (c) if the member resigns from membership pursuant to section 17;
- (d) if Cabinet revokes the appointment of that member pursuant to section 18;
- (e) if the member's appointment is not renewed by Cabinet as of the date of expiry of the member's term of appointment; or
- (f) if the member fails to attend three consecutive meetings of the Board without presenting a medical certificate or without being excused by Cabinet in writing.

Decisions not invalidated

20.— (1) A vacancy in the membership of the Board shall not invalidate a decision of the Board made at a meeting with the quorum required pursuant to section 11.

(2) Where a disqualified member sits at a meeting of the Board, the Board may review and amend its decision within two months of that decision being made.

Secretary and staff

21.— (1) The Board shall appoint a person at such salary and upon such terms and conditions as it may determine to perform the functions of Secretary to the Board.

(2) The Secretary shall perform all the functions entrusted to him or her pursuant to this Act and shall perform such additional duties as may be assigned to him or her by the Executive Director.

(3) The Board may appoint such staff as it may require for the proper carrying out of its functions pursuant to this Act.

(4) A person appointed pursuant to subsection (1) shall perform the duties assigned to him or her by the Executive Director.

Remuneration

22. The members of the Board shall be remunerated for each meeting attended from funds allocated by Parliament for that purpose.

Fund for use by Authority

23.— (1) There is hereby established a fund to be known as the Private Security Fund to be used by the Authority as revenue for the execution of its functions and discharge of its obligations pursuant to this Act.

(2) The Fund shall consist of —

- (a) sums received by the Authority in respect of application fees and licence fees and other charges imposed by the Authority under this Act;
- (b) sums allocated to the Authority by Parliament;
- (c) revenue raised by the Authority in the form of loans, grants, investments or other means; and
- (d) all other sums that may become payable to or vested in the Authority in respect of matters incidental to its powers and duties.

(3) The Authority shall establish and maintain a Reserve Fund into which shall be paid any surplus funds of the Authority.

(4) The Authority may withdraw any funds from the Reserve Fund in cases of a shortfall for the purpose of exercising its functions or discharging its duties pursuant to this Act.

(5) Subject to any general or specific direction of Cabinet, any balance in the Reserve Fund at the end of the financial year resulting from the activities carried on by the Authority pursuant to this Act which is available after making full allowance for the exercise of its functions and discharging its duties pursuant to this Act shall be paid into the Consolidated Fund.

Financial year of Authority

24. The financial year of the Authority shall begin on 1st January and shall end on 31st December in each year.

Budget and plan of action of Authority

25. The Board shall not later than October 31st in each year cause to be prepared and shall adopt and submit to Cabinet —

(a) a budget with the estimates of its income and expenditure; and

(b) a plan of action;

for the Authority in respect of the next financial year.

Accounts

26. The Authority shall keep proper records of accounts in accordance with generally accepted international accounting standards and principles and shall prepare and retain financial statements in respect of each financial year.

Audit

27.— (1) The Authority shall as soon as is practicable after each financial year have its accounts audited annually by an independent auditor appointed by the Board who shall conduct the audit in accordance with generally accepted international auditing standards.

(2) The Board, the Executive Director, officers and employees of the Authority shall grant to the auditor appointed pursuant to subsection (1) access to all books, deeds, contracts, accounts, vouchers, or other documents which the auditor may deem necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(3) A person required to appear, make a signed statement or to provide information under subsection (2) and who fails to comply commits an offence and on summary conviction is liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both and to revocation of his or her appointment as a member of the Board, the Executive Director or a member of staff of the Authority in accordance with this Act.

Auditor's report

28. An independent auditor appointed pursuant to section 27 shall, as soon as practicable and not later than two months after the end of each financial year, submit copies of the audited financial statement of the Authority and a report on the financial statement to the Board.

Annual report

29.— (1) Subject to subsection (2) and not later than three months after the end of each financial year the Authority shall submit to Cabinet an annual report on the work and activities of the Authority for that financial year and Cabinet shall not later than one month after the submission cause the same to be laid in Parliament.

(2) An annual report pursuant to subsection (1) shall be accompanied by the auditor's report pursuant to section 28.

(3) A summary of an annual report pursuant to subsection (1) shall be published in the *Gazette* and at least two newspapers in general and at least weekly circulation in Saint Lucia and the entire annual report shall be available to the public on payment of the prescribed fee to the Authority.

PART 3**PRIVATE SECURITY LICENCE****Requirement for a licence**

30.— (1) A person shall not carry on a private security business unless that person is the holder of a valid licence issued pursuant to this Act.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding four years or to both.

(3) A person shall not advertise that he or she carries on or intends to carry on a private security business unless that person is the holder of a valid licence issued pursuant to this Act.

(4) A person who contravenes subsection (3) commits an offence and upon summary conviction is liable to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years or to both.

Categories of licences

31. For the purposes of this Act, the Minister may by Order published in the *Gazette* establish —

- (a) categories of licences;
- (b) classes of licences within each category of licence; and
- (c) the terms and conditions to be complied with by the licensee for each category or class of licence;

having regard to the types of security services that each category or class of licence will authorise in the conduct of private security business.

Permission pursuant to other laws

32. A licence issued pursuant to this Act shall not have the effect of dispensing with the necessity of obtaining permission where such permission is required pursuant to any other law in force in Saint Lucia.

Licence as of right

33.— (1) Notwithstanding any other provision of this Act, a person who has been carrying on a private security business for a continuous period of twelve months immediately prior to the date of commencement of this Act is, subject to section 42, entitled on application made in accordance with section 34 within two months of commencement of this Act to the grant of a licence for that private security business for a period which expires six months after the date of commencement of this Act.

(2) Where a person referred to in subsection (1) fails to make an application for a licence within the time specified pursuant to that subsection, that person shall cease to carry on private security business.

(3) A person who contravenes subsection (2) commits an offence for which the penalty shall be the same as provided for in section 30(2).

Application for licence

34.— (1) In order to obtain a licence to carry on a private security business, a person may, subject to subsection (2) and (3), apply to the Minister for a licence, having regard to the categories of licences pursuant to this Act.

(2) An application pursuant to subsection (1) shall be submitted to the Authority in the prescribed form and shall be accompanied by the prescribed fee and such other information or particulars as may be prescribed or required by the Authority.

(3) A person shall not —

- (a) in relation to any application submitted pursuant to this section; or
- (b) in relation to any information or particulars that the person is required to furnish pursuant to this section;

make any representation or statement that the person knows is false or misleading in a material particular.

(4) A person who contravenes subsection (3) commits an offence and on summary conviction is liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

Restrictions on grant of licence

35.— (1) A recommendation for the grant of a licence shall not be made by the Authority and a licence shall not be granted pursuant to this Act if the Authority is satisfied that the applicant —

- (a) is not a fit and proper person to hold the class of licence sought by the applicant;
- (b) does not hold the prescribed qualifications, training and experience required in respect of the category or class of licence sought by the applicant;
- (c) is not competent to provide the security service to which the proposed licence relates;
- (d) has been convicted of a criminal offence except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004; or
- (e) has within the period of ten years before the application for the licence was made, been removed or dismissed from the police force on disciplinary grounds;

(2) With the approval of Cabinet, the Minister may, by Order published in the *Gazette*, amend subsection (1) to add to the categories of persons who are not qualified for licences pursuant to this Act.

(3) A recommendation for the grant of a licence shall not be made by the Authority and a licence shall not be granted pursuant to this Act to a person for the purpose of carrying on a private security business that requires the use of a firearm unless the person is the holder of a valid licence to possess a firearm pursuant to the Firearms Act 2003, No. 9.

(4) A recommendation for the grant of a licence shall not be made by the Authority and a licence shall not be granted pursuant to this Act if the Authority is satisfied that the grant of the licence would be contrary to the public interest.

(5) For the purposes of determining whether an applicant is a fit and proper person to hold a licence pursuant to this Act, the Authority shall have regard to any criminal intelligence report or other criminal information held in relation to the applicant that —

- (a) is relevant to the activities carried out under the class of licence sought by the applicant; or
- (b) causes the Authority to believe that improper conduct is likely to occur if the applicant is granted the licence.

(6) The Authority is not under any duty to disclose the extent or content of any criminal intelligence report or other criminal information as referred to in subsection (5).

Investigation of application

36. On receiving an application for a licence, the Authority may carry out all such investigations and inquiries as the Authority considers necessary to enable the Authority to consider the application properly.

Application by former police officers

37. An application for a licence made by a person who was at any time a police officer may be referred to the Commissioner of Police to seek further advice as to the suitability of the applicant to hold a licence.

Authority may require further information

38.— (1) The Authority may, by notice in writing, require a person who is an applicant for a licence or who in the opinion of the Authority has some association or connection with the applicant that is relevant to the application, to do any one or more of the following things —

- (a) to provide, in accordance with the directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and which is specified in the notice;
- (b) to produce in accordance with the directions in the notice, such records relevant to the investigation of the application as are specified in the notice and to permit examination of the records, the taking of extracts from the records and the making of copies from the records;
- (c) to authorise a person described in the notice to comply with a specified requirement of the kind referred to in paragraph (a) or (b);
- (d) to furnish to the Authority such authorities and consents as the Authority directs for the purpose of enabling the Authority to obtain information, including financial and other confidential information, from other persons concerning the person and his or her associates and relations.

(2) If a requirement made under this section is not complied with, the Authority may refuse to consider the application concerned.

(3) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

(4) The reasonable costs incurred by the Authority in investigating and inquiring into an application for a licence is payable to the Authority by the applicant, unless the Authority determines otherwise in a particular case.

(5) The costs payable pursuant to subsection (4) shall be paid prior to the grant of a licence.

Recommendations

39.— (1) Subject to the remaining provisions of this section and to section 40, where the copy of an application is submitted to the Authority pursuant to section 35(2), the Board shall make a recommendation to the Minister for the grant or refusal of a licence to that applicant and shall give reasons for a recommendation or refusal.

(2) The Authority may, within fourteen days of the receipt of an application, request additional information from the applicant for the purpose of considering an application by the Board.

(3) Where the Authority makes a request for information pursuant to subsection (2), the applicant shall submit that information within fourteen days of the request or within a further period of time granted and specified in writing by the Authority.

(4) The Authority shall not unreasonably refuse to give a further time period pursuant to subsection (3).

(5) The Board shall submit a recommendation pursuant to subsection (1) to the Minister, within twenty eight days of the application being made or information requested pursuant to subsection (3) being submitted as the case may be.

Grant or refusal of licence

40.— (1) In accordance with a recommendation made pursuant to section 40, the Minister shall grant or refuse a licence and shall within fourteen days of the receipt of the recommendation notify the applicant of the grant or the refusal and shall give the reasons in writing for a refusal.

(2) A person aggrieved by the decision of the Minister shall have the right of appeal in accordance with section 54.

No recommendation or notice

41.— (1) If no recommendation is made by the Board within the period specified in section 39(5) or if no notification is given by the Minister to the applicant within the fourteen day period specified in section 40(1), the applicant shall have the right to make a case before the Board or the Minister as the case may be and the Board or the Minister shall hear the case within seven days of an application for the hearing being made.

(2) An application for a hearing before the Board or the Minister shall be in the prescribed form.

(3) Where, after a hearing pursuant to subsection (2) —

(a) the application is refused by the Minister; or

(b) the Board fails to make a recommendation or the Minister fails to give a notice of a grant within fourteen days of the hearing;

the applicant shall have the right of appeal in accordance with section 54.

Issuance and form of licence

42.— (1) A licence granted pursuant to this Part shall —

- (a) be in the prescribed form;
- (b) be issued on payment of the prescribed licence fee to the Authority;
- (c) clearly establish the category, class and scope of the licence; and
- (d) include the terms and conditions, in addition to those provided for in this Act or the Regulations, under which the licence is granted.

(2) The Authority shall publish in the *Gazette* the name and other relevant details of persons to whom a licence has been granted.

Capital

43. A licensee shall —

- (a) in the case of a company, maintain a fully paid up equity capital of at least twenty five thousand dollars; or
- (b) in the case of any other person, maintain an amount of at least twenty five thousand dollars in a bank account approved by the Authority.

Insurance

44. A licensee shall maintain —

- (a) professional indemnity insurance; and
- (b) third party liability insurance;

in the amount approved by the Authority and with an insurance provider approved by the Authority.

Transfer of licence

45.— (1) Subject to subsection (2), a licence granted to a person shall not be transferred to any other person without the prior written consent of the Minister acting on the advice of the Authority.

(2) The Minister shall not consent to the transfer of a licence if the transfer would be contrary to the public interest or in breach of national security.

Validity of licence

46. Subject to sections 33 and 48, a licence shall be valid for the period specified in the licence.

Breaches by licensee

47.— (1) Where an allegation of breach of a term or condition of a licence is made by an aggrieved person to the Authority or where the Authority reasonably suspects a licensee of being in breach of a term or condition of its licence, the Authority shall conduct an investigation in accordance with section 5(2) and if it finds that —

- (a) the person's allegations or its suspicions are substantiated, it shall so notify the licensee of its findings and, where appropriate issue directions to the licensee—
 - (i) requesting the licensee to stop the breach and take remedial action within a specific time period; or
 - (ii) requesting the licensee to compensate any person aggrieved for any foreseeable damages caused by the breach within a specific time period; or
- (b) the person's claim is frivolous or vexatious or that its suspicions are incorrect, it shall stop its investigations and the person bringing the action shall be liable for the cost incurred.

(2) A licensee who fails to comply with a direction of the Authority given pursuant to subsection (1) commits an offence and on summary conviction is liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.

Suspension or revocation of licence

48.— (1) Where a licensee fails to comply with any direction given by the Authority pursuant to section 47, the Board shall advise the Minister who, subject to subsection (2), may suspend or revoke the licence in accordance with the terms and conditions of the licence.

(2) Prior to the suspension or the revocation of a licence pursuant to subsection (1), the Minister shall give the licensee concerned notice in writing of his or her intention to do so, specifying the grounds on which the Minister considers that the licence ought to be suspended or revoked and shall require the licensee to submit to it, within a specified period being not less than fourteen days, a written statement of objections to the suspension or revocation.

(3) A notice issued pursuant to subsection (2) must be served on a licensee —

- (a) personally or at his or her registered office;
- (b) if service is not possible in accordance with paragraph (a), by notice published in the *Gazette* and at least two newspapers in general and at least in weekly circulation in Saint Lucia.

(4) Having considered a statement of objection submitted pursuant to subsection (2), the Minister shall, acting on the advice of the Authority, by notice issued after the period specified pursuant to subsection (2) in accordance with subsection (3), inform the licensee of its decision and in the case of a decision to suspend or revoke shall include the reasons for the decision.

(5) A licence that is revoked is invalid.

(6) A licence that is suspended is invalid for the period during which it is suspended.

(7) The Minister shall by notice published in the *Gazette* and at least two newspapers in general and weekly circulation in Saint Lucia, inform the public of the suspension or revocation of a licence pursuant to this section.

PART 4 MISCELLANEOUS

Misrepresentation

49.— (1) A person shall not —

- (a) by any false, misleading or deceptive statement, representation or promise, or
- (b) by any willful concealment of a material fact;

induce or attempt to induce any person to enter into an agreement or contract in connection with the carrying on of any private security business.

(2) A person who contravenes subsection (1) commits an offence and on summary conviction is liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.

Power of court to give notice of its findings

50.— (1) If —

- (a) in any proceedings before a court in which a licensee is convicted of an indictable offence; or
- (b) in any proceedings before a court in which a licensee gives evidence or is convicted of an offence against this Act;

the court is of the opinion on the evidence before it, whether that evidence is given by the licensee or any other person, that the licensee's licence should be suspended or revoked, the court shall within twenty eight days of the hearing give notice in writing to the Authority of its findings.

(2) On receiving the notice pursuant to subsection (1), the Authority may, after conducting an investigation into the matter, either return the licence to the licensee or take action to suspend or revoke the licence.

Search warrant

51.— (1) A police officer may apply to a Magistrate for the issue of a search warrant if the police officer has reasonable grounds to believe that any provision of this Act is being contravened on any premises used to carry on a private security business.

(2) Where the Magistrate to whom an application is made is satisfied that there are reasonable grounds for so doing, the Magistrate may issue a search warrant authorising the police officer to enter and search the premises and seize anything that may be reasonably suspected to relate to the carrying on of a private security business in contravention of this Act.

(3) A person shall not hinder, obstruct, prevent or interfere with a police officer in the exercise of a power pursuant to this section.

Evidence

52. A certificate signed by the Authority certifying any of the following —

- (a) that a specified person was or was not, on a day or during a specified period, the holder of a licence;
- (b) that any licence was or was not, on a day during a specified period, subject to specified conditions;

shall be admissible in any proceedings pursuant to this Act and is *prima facie* evidence of the matters so specified.

Register

53.— (1) The Authority shall, subject to subsection (2), in the prescribed form, keep and maintain a register of all licensees.

(2) The Authority shall ensure that the Register contains the following particulars that must be recorded for each licensee —

- (a) the name of the licensee;
- (b) the address of the licensee which satisfies the prescribed requirements;
- (c) the category and class of the licence;
- (d) the date of expiry of the licence;
- (e) the terms and conditions of the licence.

(3) The Authority shall allow the public access to the Register and shall take necessary measures to give effect to the same.

(4) The Authority shall allow a person to inspect the Register and make a copy of any part of the Register on payment of the prescribed fee.

Appeal

54.— (1) There is hereby established an Appeals Tribunal for the purpose of hearing appeals against decisions of the Board and the Minister.

(2) Subject to subsection (3), the Appeals Tribunal shall consist of the following members and shall be appointed by the Minister acting on the advice of Cabinet —

- (a) an attorney-at-law with at least fifteen years experience who shall be the Chairperson;
- (b) a retired police officer not below the rank of inspector;
- (c) one person having expertise in finance or commerce;
- (d) one person having expertise in security or defence; and
- (e) one person having expertise in consumer affairs.

(3) A person shall not be appointed as a member of the Appeals Tribunal if the person —

- (a) has a direct or an indirect financial or personal interest in a private security business;
- (b) represents or is a member of a body representing the interests of employers or employees of a private security business;
- (c) is a bankrupt; or
- (d) has been convicted of a criminal offence except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004, No. 2; or
- (e) is a member of Parliament.

(4) An appeal from a decision of the Board or the Minister pursuant to this Act lies to the Appeals Tribunal.

(5) A person may, within fourteen days of notice of a decision of the Board or the Minister, apply in writing to the Appeals Tribunal against that decision.

(6) An appeal from a decision of the Appeals Tribunal under this Act lies to the High Court.

Regulations

55.— (1) The Minister may, after consultation with the Authority, make Regulations for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to subsection (1), the Minister may, after consultation with the Authority, make Regulations particularly —

- (a) relating to any category of licence established pursuant to section 31;
- (b) to prescribe the forms required pursuant to this Act;
- (c) to prescribe the fees payable pursuant to this Act;
- (d) to specify qualifications, training or experience required for any category of licence established pursuant to this Act;
- (e) to prescribe codes of conduct and codes of practice to be observed by licensees;

- (f) to prescribe the oath of secrecy for members of the Board and members of staff of the Authority pursuant to section 14;
- (g) to prescribe the procedure of the Appeals Tribunal established pursuant to section 54;
- (h) to set standards relating to security service.

Passed in the House of Assembly this 27th day of June, 2006.

J. BADEN ALLAIN,
Speaker of the House of Assembly.

Passed in the Senate this 20th day of July, 2006.

HILFORD DETERVILLE,
President of the Senate.