

Security Act

Passed 8 October 2003

(RT¹ I 2003, 68, 461),

entered into force 1 May 2004.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act provides the conditions and procedure for the activities of undertakings providing security services (hereinafter security firms), the rights and obligations of security guards, the guarantees for security guards, the conditions and procedure for organising in-house guarding, the procedure for exercising supervision over the activities of security firms and in-house guarding units, and liability for violations of this Act.

(2) This Act does not apply to authorities and units within the area of government of the Ministry of Defence, the Ministry of Justice or the Ministry of Internal Affairs whose function is to guarantee and organise the guarding and protection of an object.

(3) This Act does not apply to the National Defence League in respect of objects the guarding and protection of which the Commander of the Defence Forces has assigned to the National Defence League.

(4) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117) apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 2. Definitions

In this Act, the following definitions are used:

- 1) “security” means a condition which is ensured by avoiding risk factors;
- 2) “guarding” means the monitoring of a guarded object and its surroundings in order to detect any threat of an attack or any attack and to eliminate any danger;
- 3) “protection” means the application of measures to ensure the inviolability of a guarded object;
- 4) “guarded object” means a person, property or an event which is being guarded and protected;
- 5) “security task” means an operation undertaken by a security guard or a guard of an in-house guarding unit which arises from a security service contract or is designated in the operating procedures of the in-house guarding unit;
- 6) “qualifications” means the level of competence designated in a professional standard;
- 7) “professional standard” means the requirements which have been approved on the basis of the Professions Act (RT I 2001, 3, 7; 2002, 61, 375; 2003, 13, 68) and this Act and which are applied in respect of the skills, knowledge and personal characteristics of private security agents.

§ 3. Special requirements for ensuring security

- (1) A list of guarded objects subject to increased danger and the special requirements for ensuring the

security thereof may be established by the Government of the Republic.

(2) For the purposes of this Act, a guarded object subject to increased danger is an object of national importance where any disruption of its activities could endanger national security, the environment or the life and health of people or could cause significant economic damage.

(3) The Government of the Republic shall establish the procedure for the transport of cash and securities.

Chapter 2

Security Services

§ 4. Security services

(1) The following are security services:

- 1) security consulting;
- 2) guarding and protection of movable and real property;
- 3) personal protection;
- 4) maintaining order at an event or a guarded object;
- 5) operation of a monitoring centre;
- 6) planning, installation and maintenance of security equipment.

(2) Security services may be provided by security firms operating on the basis of this Act.

§ 5. Security service contract

(1) A security firm may provide a security service in a field specified in its licence on the basis of a written contract entered into with a customer.

(2) A security service contract shall set out the rights, obligations and liability of the security firm and the customer, and the conditions for guarding and protecting the object.

§ 6. Security consulting

For the purposes of this Act, security consulting is the process of identifying the risks arising from the characteristics or peculiarities of a guarded object and providing written recommendations for the prevention or reduction thereof. Recommendations shall be made in the form of a security plan.

§ 7. Guarding and protection of movable and real property;

(1) In order to guard and protect movable and real property, manned or alarm guarding or both shall be installed.

(2) For the purposes of this Act, manned guarding is the action taken by a person performing a security task to ensure the inviolability of a guarded object.

(3) For the purposes of this Act, alarm guarding is the remote monitoring of a guarded object with the aim of identifying any threat of attack or any attack through the use of alarm and surveillance equipment, and of reacting rapidly to any alert.

§ 8. Personal protection

(1) For the purposes of this Act, personal protection is the application, at the request and with the written consent of a person, of measures to ensure the security of that person or another person. Personal protection is divided into bodyguarding and mobile protection.

(2) The protection of a person against attack or any other danger at his or her place of residence or work or at the place where he or she is located is deemed to be bodyguarding.

(3) The protection of a person travelling in a vehicle is deemed to be mobile protection. Protection shall be ensured by selecting a vehicle and route which are safe and, if necessary, by using an escort vehicle.

§ 9. Maintaining order at events

(1) For the purposes of this Act, an event is an occurrence organised at a public place within a designated or non-designated territory and at a specified time, where public order is ensured in order to protect the participants.

(2) Before entering into a security service contract, a security firm shall present the security plan to the customer, on the basis of which the following facts shall be set out in the contract:

- 1) the boundaries of the guarded object (the information shall be presented in the form of a description or a plan);
- 2) the organisation of parking for vehicles;
- 3) the expected number of participants;
- 4) the number of security guards, the personnel, their duty roster and official duties, and the need for them to be provided with training;
- 5) the organisation of co-operation with the police and other relevant authorities;
- 6) other relevant information.

(3) At least one-half of the employees of a security firm who are to be involved in maintaining public order at an event must have the qualifications of security guards.

§ 10. Operation of monitoring centre

(1) A monitoring centre is a unit for the remote monitoring of information transmitted by security equipment, and the duties of the employees at a monitoring centre are to determine any change to the guarded object or any potential threat to the object in due time, to inform the security guards promptly of any such change or threat, to co-ordinate the activities of the security guards and to apply relevant measures.

(2) A security firm which operates a monitoring centre shall meet the following requirements:

- 1) the firm must own or possess suitably equipped premises which are protected against attack for receiving and processing alerts;
- 2) the firm must have entered into a contract with a telecommunications undertaking for the use of a fixed public telephone network if alerts are to be transmitted through such a network;
- 3) the firm must have a permit for the use of a radio frequency if alerts are to be received through radio transmission equipment;
- 4) if necessary, the firm must provide twenty-four hour manned service for the guarded object;

5) the firm must ensure that there are always two security guards in the monitoring centre.

(3) A monitoring centre may also be operated by a security firm which still ensures that alerts will be accepted, processed, transmitted and protected but in a manner other than those set out in subsection (2) of this section.

§ 11. Security equipment

(1) For the purposes of this Act, security equipment is alarm or surveillance equipment which is intended to detect an intrusion, any other attack or any potential threat to a guarded object.

(2) For the purposes of this Act, alarm equipment is a set of equipment which is intended to detect any potential threat to a person or property or any attack made against a person or property and to transmit an alert.

(3) For the purposes of this Act, surveillance equipment is a set of equipment which transmits or records a picture or an electronic signal and which is intended to keep guard of a territory, person, object or process or to determine the location of a territory, person or object or the place at which a process is occurring.

§ 12. Planning, installation and maintenance of security equipment.

(1) The procedure for the planning, installation and maintenance of security equipment shall be established by the Government of the Republic.

(2) The requirements for the qualifications of planners, installers and maintainers of security equipment shall be established, qualifications shall be awarded and qualification certificates shall be issued pursuant to the procedure prescribed in the Professions Act.

Chapter 3

Security Firms

§ 13. Security firms

(1) A security firm is a person which holds a licence for providing a security service.

(2) The provisions of legislation regulating enterprise apply to security firms, taking account of the specifications arising from this Act

(3) When providing a service, a security firm may only use staff employees.

§ 14. Principal functions of security firms

The principal functions of a security firm are:

1) to ensure the safety and inviolability of the guarded object;

2) to prevent any offence from being committed against the guarded object or from endangering the guarded object, or to hinder any such offence in order to ensure the inviolability of the guarded object;

3) to identify any factors which reduce security and to use technical resources and know-how to lessen their effects.

§ 15. Obligations of security firms

A security firm shall perform the following obligations:

1) each month, the firm shall provide to the police prefecture of the location of the relevant guarded

object written information concerning objects newly placed under manned guard and objects under manned guard where the service contract has been terminated. The notice shall set out the name and address of the object, the name of the person with whom the security service contract is entered into, the date on which the contract is entered into, the period of validity of the contract, and a list of the security tasks to be performed;

2) the firm shall promptly inform the police prefecture of the location of a guarded object of any attack made against the guarded object.

§ 16. Restrictions on activities of security firms

(1) It is prohibited for a security firm to:

- 1) manufacture or sell explosive substances, weapons, essential components of firearms, laser sights or ammunition;
- 2) convert or repair weapons;
- 3) provide private detective services;
- 4) perform police or national defence functions, except in cases where this is permitted by other Acts.

(2) The Government of the Republic may establish restrictions on the amount of capital belonging to citizens or legal persons of states which are not members of the European Economic Area in the composition of the assets of security firms.

§ 17. Preparation and storage of documents related to provision of security service

(1) Each of the following is a document which is related to the provision of a security service:

- 1) a file on any occurrence which has happened at a guarded object;
- 2) the security service contract;
- 3) the personal file of a security agent;
- 4) the electronic recording of an alert or the book for the registration of alerts.

(2) The documents specified in clauses (1) 1)-3) of this section shall be preserved on site by the security firm or the authority with an in-house guarding unit for five years. Electronic recordings of alerts and books for the registration of alerts shall be preserved for one year as of the last recording or entry being made.

(3) A file shall be prepared concerning occurrences which have endangered a guarded object while it has been under guard and protection, into which reports and additional material shall be placed. The following information and additional material shall be presented in the file:

- 1) the time and place of preparation of the report;
- 2) the name of the security firm or of the authority with an in-house guarding unit for which the report is prepared;
- 3) the position and name of the person who prepared the report;
- 4) the time and place of the occurrence which endangered the guarded object;
- 5) a description of the occurrence;

- 6) the name of the person who committed the unlawful act or who is suspected of having committed the unlawful act, and his or her passport number or the number of any of his or her other identity documents;
- 7) the given names, surnames, dates of birth or personal identification codes, addresses, places of work and telephone numbers of any witnesses and the victim, and their passport numbers or the number of any of their other identity documents;
- 8) an explanation from the person who committed the unlawful act;
- 9) information concerning the detention of the person who committed the unlawful act, verification of his or her identity and the removal and return of his or her things and documents;
- 10) the time at which and place where the person was handed over to the police, and the name of the police authority;
- 11) explanations from witnesses and victims;
- 12) other information necessary for resolution of the matter.

(4) Alerts shall be saved on computer or on audio tape or registered in the book for the registration of alerts. An alert shall contain the following information:

- 1) the method in and time at which the alert was received;
- 2) the name of the guarded object from which the alert was transmitted;
- 3) the place of the occurrence specified in the alert and a description of the occurrence;
- 4) information concerning the processing of the alert (procedural acts, orders and information obtained from security guards).

(5) Any other documents related to the provision of a security service or the performance of a security task shall be prepared and preserved pursuant to the general records management procedure of the security firm.

(6) Documents specified in subsection (1) of this section shall be stored and destroyed pursuant to the procedure established by the Archives Act (RT I 1998, 36/37, 552; 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480).

Chapter 4

In-house Guarding Units

§ 18. In-house guarding units

(1) For the purposes of this Act, an in-house guarding unit is a unit of an undertaking, state authority or local government authority which guards property owned or possessed by the undertaking, state authority or local government authority. An in-house guarding unit may guard property belonging to another person or authority free of charge if this arises from the areas of activity set out in the articles of association or statutes of the undertaking, state authority or local government authority. This provision does not apply to the lease or rental of premises or the organisation of parking in an enclosed guarded territory.

(2) It is prohibited for an in-house guarding unit to provide security services.

§ 19. Obligations of in-house guarding units

(1) An in-house guarding unit shall be registered by the police prefecture of the location on the basis of a

corresponding application. An application for registration shall contain the following information:

- 1) the location of the in-house guarding unit;
- 2) the location and number of guarded objects;
- 3) the name and contact details of the person responsible for the in-house guarding unit (hereinafter the head of the in-house guarding unit);
- 4) a statement confirming that the head of the in-house guarding unit meets the requirements of this Act;
- 5) the number of guards of the in-house guarding unit;
- 6) the names of the weapons used for guarding and the number of such weapons.

(2) If an in-house guarding unit is liquidated, the head of the undertaking, state authority or local government authority shall inform the police prefecture thereof within two weeks as of the unit being liquidated. If the head of an in-house guarding unit is released from office, the police prefecture shall be informed thereof within one week as of the person being released from office.

(3) The file on a guard of an in-house guarding unit and any information submitted on an occurrence at a guarded object shall be preserved by the undertaking, state authority or local government authority for five years pursuant to the procedure provided for in § 17 of this Act.

(4) Chapter 8 of this Act applies in respect of the acquisition, ownership, possession, carrying and storage of weapons and ammunition or special equipment and in respect of granting the use thereof to a guard of an in-house guarding unit.

§ 20. Guards of in-house guarding units

(1) Responsibility for the activities of an in-house guarding unit shall be held by the head of the in-house guarding unit, who shall have the qualifications of a security officer. The head of an in-house guarding unit shall not be a contracted employee of a security firm and shall not provide security services.

(2) The liability, obligations and social guarantees of a guard of an in-house guarding unit shall be determined in the contract entered into with the undertaking, state authority or local government authority.

Chapter 5

Private Security Agents

§ 21. Definition of private security agent

(1) For the purposes of this Act, a private security agent is:

- 1) a sole proprietor who provides a security service;
- 2) an employee of a security firm who has the qualifications of a security officer and who works as a security officer (hereinafter security officer);
- 3) an employee of a security firm who guards and protects a guarded object either directly or by using technical resources.

(2) A guard is a person who has undergone initial training and who performs the duties of a security guard on the basis of a contract of employment entered into for a specific term with a probationary period of up to four months, who is an Estonian citizen or a person holding a permanent residence permit in Estonia,

who is at least 19 years of age and who has completed basic education, who is proficient in Estonian at the level established by law or by legislation issued on the basis thereof, who is capable of performing the duties of a security guard in terms of his or her personal characteristics, moral standards, physical condition and health, and to whom the restrictions specified in subsection 23 (1) of this Act do not apply. If the person wishes to work as a security guard following his or her probationary period, he or she is required, either during the probationary period or within two months after it ends, to undergo basic training for security guards and he or she may then begin to perform the duties of a security guard on the basis of a contract entered into with a security firm.

(3) An employee of a security firm who provides the services specified in clause 4 (1) 6) of this Act is not deemed to be a security agent.

§ 22. Requirements for security guards

(1) A person who is an Estonian citizen or a person to whom a permanent residence permit has been issued in Estonia, who is at least 19 years of age, who has completed basic education and who holds the qualifications of a security guard, who is proficient in Estonian at the level established by law or by legislation issued on the basis thereof, and who is capable of performing the duties of a security guard in terms of his or her personal characteristics, moral standards, physical condition and health may work as a security guard. A security guard who maintains order at an event held at a public place, provides personal protection or is engaged in the transport of cash and securities must be at least 21 years of age.

(2) Sole proprietors who provide security services, security officers and heads of in-house guarding units must be Estonian citizens of at least 21 years of age who have completed secondary education, hold the qualifications of a security officer and are capable of performing the duties of security guards in terms of their personal characteristics, moral standards, physical condition and health.

(3) The professional suitability of private security agents, the requirements for their physical condition and health and the procedure for verifying that the health requirements are met shall be established by the Minister of Internal Affairs.

§ 23. Prohibition on working as private security agent

(1) It is prohibited for a person to work as a private security agent if he or she:

- 1) has restricted active legal capacity;
- 2) is serving a sentence for a criminal offence or if information concerning a punishment for a criminal offence committed by him or her has not been expunged from the punishment register;
- 3) is a private detective;
- 4) is a bankrupt;
- 5) does not meet the requirements of this Act.

(2) A security firm shall seek clarification regarding the restrictive circumstances set out in subsection (1) of this section before entering into a contract of employment.

§ 24. Qualifications of private security agents

(1) The requirements for the qualifications of private security agents shall be established, qualifications shall be awarded and qualification certificates shall be issued pursuant to the procedure prescribed in the Professions Act.

(2) The levels of qualifications of private security agents are as follows:

1) security guard;

2) security officer.

§ 25. Private security agent uniform

(1) When performing his or her official duties, a private security agent shall wear a uniform.

(2) A private security agent providing personal protection services need not wear a uniform.

(3) The uniform of a private security agent shall not be misleadingly similar to the uniform of another security firm, a member of the Defence Forces, a member of the National Defence League, a police officer, a Border Guard official, an official of the fire service, an official of the rescue service, a customs officer or a prison officer.

(4) The uniform shall include an emblem with the business name of the security firm or its registered trade mark in the form of a logo, and a certificate of employment or a name tag containing the word “*turvatöötaja*” (security guard) or “*valvetöötaja*” (guard) and the given name and surname of the security guard or the guard.

(5) Approval for the description of the uniform and emblem shall be sought from the Police Board. The procedure for wearing the uniform shall be established by the security firm.

§ 26. Certificate of employment of private security agent

(1) A private security agent performing his or her official duties shall carry a certificate of employment bearing a photograph and his or her personal identification code and the business name of the security firm.

(2) A sole proprietor who is a security firm performing a security task shall carry a notarially attested copy of his or her licence or a transcript certified by the Police Board, and an identity document.

(3) When addressing a person, a private security agent shall identify himself or herself and present his or her certificate of employment.

Chapter 6

Private Security Agent Training

§ 27. Private security agent training

(1) Security agent training consists of the following components:

1) initial training;

2) basic training;

3) training for security officers;

4) in-service training.

(2) During initial training, elementary knowledge and skills which are necessary for security work are acquired. Before beginning to perform security tasks for a security firm, a person must have undergone initial training of at least sixteen hours.

(3) In order to obtain the qualifications of a security guard, a guard shall undergo basic training during his or her four-month probationary period or within two months after it. The duration of basic training shall be

at least fifty hours.

(4) In order to obtain the qualifications of a security officer, a security guard shall undergo training for security officers of at least eighty hours.

(5) At least sixteen hours of in-service training annually shall be prescribed for an employee of a security firm.

(6) The provisions of the Adult Education Act (RT I 1993, 74, 1054; 1998, 71, 1200; 1999, 10, 150; 60, 617; 2002, 90, 521; 2003, 20, 116) concerning professional education and training apply to security guard training.

§ 28. Organisation of security agent training

(1) Basic training for security guards, training for security officers and in-service training may be organised by a person holding a corresponding licence (hereinafter an education licence). It is prohibited for a person organising training to engage in the activities specified in subsection 16 (1) of this Act.

(2) Initial training may be organised on the premises of the security firm or an enterprise which holds an education licence to organise training for security agents. A teacher providing initial training must have the qualifications of a security officer.

(3) The physical conditioning of security agents shall be organised by the security firm.

§ 29. Study programme

The study programme for security agents shall be established by the educational institution of a legal person which organises training and in-service training for security guards, in compliance with a professional standard established on the basis of the Professions Act. Approval for the study programme shall be sought from the Police Board and the National Examination and Qualification Centre.

§ 30. Conditions and procedure for grant of education licence

(1) Training for security agents shall be organised by a person whose registered area of activity or whose activity according to its articles of association or statutes is the training of security agents and which holds an activity licence for organising training for security agents.

(2) An education licence is granted for a specified term of one to five years.

(3) An education licence shall be issued, suspended, revoked or annulled by the Ministry of Education and Research on the proposal of the Police Board under the conditions and pursuant to the procedure provided for in this Act.

(4) An education licence shall be issued to a person whose material resources, teachers and study programme enable the requirements for the qualifications of security guards to be observed.

(5) An applicant for an education licence shall submit an application in free form to the Ministry of Education and Research at least two months before the training is to commence. The following documents shall be annexed to the application:

1) a transcript of the articles of association or statutes of the applicant;

2) a copy of the certificate of registration of the applicant in the commercial register or the non-profit associations and foundations register;

3) the opinion of the Police Board as to whether the applicant meets the requirements for the grant of an activity licence;

- 4) the approved study programme;
 - 5) a list of the persons organising the training for security guards;
 - 6) a statement confirming that the person organising the training for security guards meets the requirements of subsection 28 (2) of this Act;
 - 7) a statement from the Health Protection Inspectorate concerning the existence of appropriate premises and teaching aids;
 - 8) a statement confirming that the applicant is not operating in any of the fields specified in subsection 16 (1) of this Act.
- (6) An application for an education licence shall be reviewed within one month as of the receipt thereof.

§ 31. Bases for suspension and revocation of education licence

The issuer of an education licence may suspend the validity of the licence for up to six months or revoke the licence if:

- 1) due to a change in circumstances, the person organising training for security agents no longer meets the requirements which were the basis for the issue of the activity licence;
- 2) the person organising training for security agents does not meet the requirements of this Act and legislation issued on the basis thereof;
- 3) the person organising training for security agents has knowingly submitted falsified documents or false information to the issuer of the licence.

Chapter 7

Rights and Obligations of Private Security Agents and Guarantees for Private Security Agents

§ 32. Rights of security agents

(1) A security agent has the right:

- 1) to prevent access to a guarded object by any person who attempts to enter the object without appropriate permission or without other legal grounds;
- 2) to apprehend any person at the guarded object if that person is suspected of having committed an offence;
- 3) to apprehend any person who enters or has entered a guarded object, stays there without appropriate permission or without other legal grounds, endangers the guarded object or other persons at the guarded object, or hinders the security guard from performing his or her duties. An apprehended person shall be handed over to the police promptly;
- 4) when apprehending a person, to carry out a security check of the person and the objects held by him or her in order to verify that the apprehended person is not in possession of objects or substances with which he or she could endanger himself or herself or others. A security agent has the right to seize dangerous objects and substances. Seized objects and substances shall be handed over to the police promptly.

(2) Taking into consideration the behaviour of a person apprehended at an object, the actual level of danger or the nature of an act committed, a security agent has the right:

- 1) to remove a person from the object;

- 2) to identify a person on site;
- 3) to escort a person suspected of having committed an offence to a police authority;
- 4) to escort a person to a medical institution or a police authority if the person shows signs of being intoxicated and may endanger himself or herself or other persons through his or her behaviour.

§ 33. Obligations of security agents

A security agent is required:

- 1) to refuse to perform duties which are in conflict with law;
- 2) to maintain the confidentiality of information obtained from the customer;
- 3) to inform the monitoring centre promptly of any offence which has been committed, is being committed or is planned against a guarded object;
- 4) to perform his or her duties without interfering with the legal activities of state authorities, local government authorities, supervisory authorities, pre-trial investigation authorities, courts, bailiffs or other persons;
- 5) when performing his or her official duties, to observe the constitutional rights of persons while using sound, photographic, film, video, communications and guarding equipment and information technology resources or other technical resources;
- 6) to inform the security firm promptly if any of the circumstances specified in subsection 23 (1) of this Act arise.

§ 34. Guarantees for security agents

(1) If a security agent performs a security task which causes him or her to become permanently incapacitated for work, his or her employer shall pay him or her the following as a single allowance:

- 1) in the event of total incapacity for work, three years' wages;
- 2) in the event of partial incapacity for work, one year's wages.

(2) In the case of a security agent who dies while performing his or her official duties for a security firm, the employer shall pay a single allowance of five years of the security agent's wages to his or her spouse or the person in respect of whom the security agent fulfilled the maintenance obligation arising from the Family Law Act (RT I 1994, 75, 1326; 1996, 40, 773; 49, 953; 1997, 28, 422; 35, 538; 2000, 50, 317; 2001, 16, 69; RT III 2001, 15, 154; RT I 2001, 53, 307; 2002, 53, 336).

(3) The single allowance shall be calculated on the basis of the average wages of the security agent who became permanently incapacitated for work or who died.

(4) Payment of the single allowance does not release the employer from obligations provided in other Acts to compensate an employee who is permanently incapacitated for work.

§ 35. Applying for allowance

(1) In order to obtain an allowance, a security agent who is permanently incapacitated for work shall submit a written application and a certificate from the medical assessment committee concerning the degree of permanent incapacity for work which has been determined.

(2) In order to obtain an allowance, a member of the family of a deceased security agent or a person who

was maintained by that security agent shall submit a written application to which the following are annexed:

- 1) documents which certify that the person submitting the application is a member of the family of the deceased or was maintained by the deceased;
- 2) the death certificate of the deceased.
- (3) An application for an allowance shall be submitted to the employer within one year as of the degree of permanent incapacity for work of the security agent being determined or within one year as of his or her death.

§ 36. Grant and payment of allowance

- (1) The employer shall review the application and other documents submitted by a security agent who is permanently incapacitated for work and make a decision within one month as of the submission thereof.
- (2) The employer shall review the application and other documents submitted by a member of the family of a deceased security agent or a person who was maintained by that security agent and make a decision within one month as of the submission thereof.
- (3) If several persons who have the right to obtain a single allowance submit justified applications for an allowance, the employer shall grant them an equal proportion of the allowance.
- (4) The employer shall notify the applicant for an allowance of the decision to grant or to refuse to grant an allowance within seven working days as of making the decision. If the decision is one of refusal, the employer shall specify the reason for the refusal, explain the procedure for contestation of the decision and return the documents which were annexed to the application. The employer has the right to refuse to pay an allowance only if the incapacity for work has arisen at the fault of the security agent himself or herself.
- (5) The single allowance shall be paid by the employer within one month as of the allowance being granted. If the parties so agree, the employer may pay the allowance in instalments.

Chapter 8

Weapons, Ammunition and Special Equipment

§ 37. Weapons

- (1) The Weapons Act (RT I 2001, 65, 377; 88, 531; 102, 673; 2002, 29, 175; 53, 336; 61, 375; 63, 387; 110, 653) and procedure provided for in legislation issued on the basis thereof applies to security firms and in-house guarding units in respect of the acquisition, ownership, possession, storage and carrying of weapons and ammunition and in respect of granting the use thereof to employees, taking account of the specifications provided for in this Act.
- (2) A security firm may use only weapons that belong to the security firm when providing a security service. If an undertaking, state authority or local government authority has an in-house guarding unit, a guard of the unit may use a weapon which belongs to the undertaking or authority while he or she is on duty.
- (3) A security agent performing a security task and a guard of an in-house guarding unit performing an in-house guarding task may only use a weapon in cases where the life or health of a person is in danger and where it is not possible to eliminate the danger in any other way and the nature of the danger justifies the use of the weapon.
- (4) Records on cases where weapons are used shall be maintained by the person who is responsible for

weapons and ammunition at the security firm or at an authority with an in-house guarding unit.

(5) It is prohibited to use a weapon against a child, an elderly person, a person who is clearly disabled or a woman who is clearly pregnant. This prohibition does not apply if it is necessary to use a weapon against such a person to prevent or hinder an attack or a group attack if the attack puts the life or health of the security guard or another person in danger.

§ 38. Use of rubber truncheon

(1) While at work, a security guard who is wearing uniform may carry a rubber truncheon either in a closed holder attached to his or her duty belt or openly on his or her duty belt.

(2) A rubber truncheon may be used in protecting a guarded object to prevent an attack against the security guard or another person or to hinder a group attack if the attack puts the life or health of the security guard or the other person in danger.

§ 39. Special equipment

(1) A security firm or an in-house guarding unit may use the following special equipment to guard and protect an object:

- 1) special purpose marking and colouring equipment;
- 2) handcuffs;
- 3) service dogs.

(2) Special equipment shall be stored in a locked room adapted for such purposes or in a weapons storage room but separately from weapons and ammunition. The first sentence of this subsection does not apply to service dogs.

(3) It is prohibited to use handcuffs or service dogs in the case of a child, an elderly person, a person who is clearly disabled or a woman who is clearly pregnant. This prohibition does not apply if it is necessary to use handcuffs or a service dog against such a person to hinder an attack if the attack puts the life or health of the security guard or another person in danger.

§ 40. Handcuffs

(1) In order to obtain authorisation to acquire handcuffs, a security firm or an authority with an in-house guarding unit shall submit an application to the police prefecture of the location stating the number of handcuffs and giving a description of the conditions for the storage of special equipment.

(2) The police prefecture shall review the application and decide to grant or to refuse to grant authorisation within one month as of receiving the application. Authorisation is valid for three months.

(3) In assessing the justification for the application specified in subsection (1) of this section, the police prefecture shall proceed from the nature of the guarded object, the size of the risk, the number of security guards or guards of the in-house guarding unit, and the conditions for the storage of special equipment.

(4) It is permitted to use handcuffs when apprehending a person if there is reason to believe that he or she may escape, attack the security guard or the guard of the in-house guarding unit or put other persons or himself or herself in danger.

§ 41. Service dogs

(1) A security firm or an in-house guarding unit may use a service dog to guard and protect an object if the dog has at least undergone basic training and if it obeys the orders of its handler. It is permitted to be

accompanied at a guarded object by a service dog which is not wearing a muzzle if the dog is kept on a lead or if the territory is surrounded by a fence and there are signs indicating that a service dog is being used. It is prohibited to leave a service dog unsupervised at a guarded object.

(2) The Animal Protection Act (RT I 2001, 3, 4; 2002, 13, 78; 61, 375; 63, 387; 96, 566), veterinary requirements, and the rules for keeping animals as established by the relevant local government apply to the keeping of a service dog.

§ 42. Obligation to inform police authority

(1) If the use of a weapon or special equipment in the provision of a security service or the performance of a security task or an in-house guarding task causes physical harm to or the death of a person, the security firm or the in-house guarding unit is required promptly to inform the police prefecture thereof orally and to submit a written notice within twenty-four hours of the occurrence.

(2) The notice shall set out the time and place of the occurrence, the circumstances of the occurrence, the name of the person who used the weapon or special equipment, the name of the person against whom the weapon or special equipment was used, and a description of the consequences arising from the use of the weapon or special equipment.

Chapter 9

Licence

§ 43. Licence to provide security service

(1) A licence to provide a security service (hereinafter a licence) is a right granted on the basis of this Act and other legislation to provide a security service specified in subsection 4 (1) of this Act during the term indicated in the licence, pursuant to the established procedure and under the established conditions.

(2) A licence shall be valid from one year to five years. A temporary licence to provide a security service shall be granted if less than one year is needed to perform the relevant obligation.

(3) The format for licences shall be established by the Minister of Internal Affairs.

(4) Decisions on the issue, refusal to issue, extension, amendment, suspension and revocation of licences shall be taken by the National Police Commissioner. Licences shall be granted separately for each of the security services set out in subsection 4 (1) of this Act.

§ 44. Requirements for applicants for licence

(1) A licence may be applied for by a person (hereinafter applicant):

1) whose area of activity as indicated in the register or foundation documents is the provision of a security service specified in subsection 4 (1) of this Act;

2) who does not have a holding in any company which manufactures or sells explosive substances, weapons, essential components of firearms, laser sights or ammunition or which converts or repairs weapons or provides private detective services, or who, according to the information held in the commercial register, is not operating in any of those fields.

(2) In addition to the requirements of subsection (1) of this section, sole proprietors are also subject to the requirements established for security agents.

(3) In addition to the requirements of this section, applicants for a licence to operate a monitoring centre are also subject to the requirements of subsection 10 (2) or (3).

§ 45. Procedure for applying for licence

(1) An applicant for a licence shall submit a corresponding application to the police prefecture of the location and the latter shall forward the application to the Police Board.

(2) The following information shall be presented in an application for a licence:

- 1) if the applicant is a natural person, his or her given name, surname, personal identification code and residence;
- 2) if the applicant is a legal person, its business name and seat; in the case of a security company, a list of shareholders who hold over 5 per cent of the share capital; the full name, seat and registry code of each legal person shall be set out in the list;
- 3) the name of the security service which the applicant wishes to provide;
- 4) the place at or area in which the security service is to be provided;
- 5) the desired period of validity of the licence, though not more than five years;
- 6) the registry code if the security firm is entered in the commercial register.

(3) The following documents shall be annexed to an application for a licence:

- 1) a transcript of the articles of association of the applicant;
- 2) in the case of a firm being founded, a statement confirming that it has the resources to perform the security service for which it is applying;
- 3) a statement from the applicant confirming that the security officer who is to provide the security services meets the requirements set out in subsection 22 (2) of this Act;
- 4) a copy of the weapons permit if the applicant has a weapon.

§ 46. Acts performed by police prefecture

The police prefecture shall check that the applicant for a licence, the application for a licence and the documents annexed thereto meet the requirements of this Act and shall submit the application, the documents and its opinion on whether a licence should be granted or refused to the Police Board within one month as of the documents required on the basis of this Act being submitted. If the applicant for a licence has committed a violation of this Act during the two years before submitting the application, the police prefecture shall submit a copy of the relevant decision or precept to the Police Board.

§ 47. Grant of licence and refusal to grant licence

(1) The National Police Commissioner shall make a decision to grant or to refuse to grant a licence within one month as of the date on which the Police Board receives the application for a licence and the opinion of the police prefecture.

(2) A licence may be refused if:

- 1) the applicant does not meet the requirements of this Act or legislation issued on the basis thereof;
- 2) the applicant has, within the preceding two years, materially violated the requirements of this Act or legislation issued on the basis thereof;
- 3) the applicant operates in one of the fields specified in subsection 16 (1) of this Act;

4) there is reason to doubt the general trustworthiness of the applicant;

5) less than three years have passed since the previous licence of the applicant was revoked on the basis of § 53 of this Act.

§ 48. Informing police prefecture

The Police Board shall send the licence to the police prefecture of the residence or seat of the applicant and to the applicant or shall give notification of its decision to refuse to grant a licence within three working days as of taking the decision.

§ 49. Obligation to notify of changes to information which was basis for grant of licence

(1) If there are changes to the information or amendments to the documents which were the basis for the grant of a licence to a security firm, the security firm shall inform the police prefecture of the residence or seat of the firm of such changes or amendments within five working days as of their being made. The information which has changed or the amended document or a transcript thereof shall be submitted together with the notification.

(2) The police prefecture shall forward the information or document and, if necessary, its proposals to the Police Board within one week as of receiving the information or document.

§ 50. Suspension of validity of licence and of provision of security service specified in licence

(1) The National Police Commissioner may suspend the validity of a licence:

1) if the security firm has not given notification of changes to the information which was the basis for the licence;

2) for up to two months if the security firm has violated this Act.

(2) The National Police Commissioner may suspend the right to provide the security service indicated in the licence for up to one year if the security firm has violated this Act or operated a manner which disregards public order or poses a threat to national security.

§ 51. Amendment of licence

(1) A licence may be amended on the application of the holder of the licence or at the initiative of the Police Board if the information in the licence has changed.

(2) If a decision has been taken to amend a licence, a new licence which is valid until the end of the period of validity of the former licence shall be issued to replace the former licence.

§ 52. Extension of licence

(1) An application for extension of a licence shall be submitted through the police prefecture of the residence or seat of the applicant at least three months before the end of the period of validity of the former licence.

(2) The following shall be annexed to an application for extension of a licence:

1) a statement from the local Tax Board Office certifying the absence of tax arrears;

2) the documents specified in subsection 45 (3) of this Act if they have been amended before the application is submitted.

(3) An application for extension of a licence shall be reviewed pursuant to the procedure provided for in

§§ 46-48 of this Act. If the application is satisfied, the National Police Commissioner shall issue a new licence.

(4) Extension of a licence may be refused if the applicant has violated this Act during the two years prior to submitting the application for extension of the licence.

§ 53. Bases for revocation of licence

The National Police Commissioner may revoke a licence if the security firm:

- 1) has submitted a corresponding application;
- 2) fails to comply with this Act or legislation issued on the basis thereof, disregards public order or poses a threat to national security;
- 3) does not meet the requirements for a licence to be issued;
- 4) has not provided a security service for six consecutive months;
- 5) owes arrears and has not paid the arrears within two months as of the date on which the Tax Board issued a precept concerning the arrears;
- 6) operates in a manner which puts the health or property of persons in danger or is hazardous to the environment;
- 7) operates in a field for which it does not hold a licence;
- 8) has knowingly submitted falsified documents or false information;
- 9) has, for the second time in a year, failed to submit documents or information, the submission of which is mandatory;
- 10) fails to comply within the specified term or to the specified extent with a precept of the Police Board or the police prefecture for the elimination of deficiencies.

§ 54. Procedure for revocation of licence

- (1) Licences shall be revoked by the National Police Commissioner.
- (2) Before deciding on the revocation of a licence, the National Police Commissioner or his or her representative shall hear the representative of the security firm. Any failure on the part of the representative to appear shall not prevent the matter from being heard.
- (3) The date on which the activity specified in the licence is to be terminated shall be set out in the decision to revoke the licence.
- (4) A transcript of the decision to revoke a licence shall be sent to the police prefecture of the residence or seat of the security firm within three working days as of the decision being made.

§ 55. Records regarding licences

- (1) The Police Board shall maintain records on licences granted, amended, extended, suspended or revoked by the National Police Commissioner.
- (2) The Police Board shall compile a security supervision file on the holder of a licence into which documents shall be bound which are connected to the grant, refusal, extension, amendment and revocation of the licence and to the state supervision exercised over the holder of the licence.

Chapter 10

State Supervision

§ 56. State supervision

State supervision (hereinafter supervision) over the activities of security firms, security guards performing security tasks, in-house guarding units and guards of in-house guarding units shall be exercised by the National Police Commissioner or by a police officer authorised thereby.

§ 57. On-site inspection

(1) The police officer exercising supervision has the right to conduct an on-site inspection of the security firm or the in-house guarding unit.

(2) The security firm or the authority with an in-house guarding unit is required to enable the police officer:

- 1) with the permission of the possessor of the site, to enter the site and to be present at the place where the security service is provided or in-house guarding tasks are performed;
- 2) to have access to documents concerning the provision of security services or the performance of in-house guarding tasks and to make extracts and copies thereof;
- 3) to obtain written and oral explanations concerning the circumstances under inspection;
- 4) to inspect the certificate of employment of a security guard, the activities of a guard of the in-house guarding unit and the documents prescribed in this Act.

(3) A security firm or an in-house guarding unit may be inspected in the presence of the head of the security firm or the authority with the in-house guarding unit, his or her representative, an employee or, in the absence of these people, a third party. In order to inspect a security area or a room used to store information classified as confidential, the police officer conducting supervision shall present his or her access permit to state secrets of the corresponding classification.

(4) The police officer conducting supervision shall prepare a supervision report on the on-site inspection in duplicate, one original copy of which is to be retained by the security firm or the authority with the in-house guarding unit and the other by the police officer conducting supervision. The supervision report shall contain the following information:

- 1) the position and name of the police officer who compiled the supervision report;
- 2) the date on which the supervision report is made;
- 3) the business name or the name of the authority of the recipient of the supervision report, and information on the residence or seat thereof;
- 4) a summary of the results of the supervision.

(5) The police officer conducting supervision has the right to make a proposal to the National Police Commissioner for the suspension or revocation of the licence.

§ 58. Precepts

(1) The police officer conducting supervision has the right to issue precepts to the security firm or the authority with the in-house guarding unit concerning the termination of violations of the requirements established by this Act.

(2) A precept shall contain the following information:

- 1) the position and name of the police officer who prepared the precept;
 - 2) the date on which the precept is issued;
 - 3) the business name or the name of the authority of the recipient of the precept, and information on the residence or seat thereof;
 - 4) the bases for issuing the precept and a reference to the relevant provision of law;
 - 5) the due date for compliance with the precept;
- (3) The security firm, the authority with the in-house guarding unit or the representative thereof shall promptly be notified of the precept against a signature.

(4) The security firm or the authority with the in-house guarding unit shall promptly comply with the precept.

(5) In the event of failure to comply with the precept, the supervisory official may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580).

(6) The upper limit for a penalty payment specified in subsection (5) of this section is 10 000 kroons.

§ 59. Contestation of precept or act of police authority

(1) A security firm or an authority with an in-house guarding unit which disagrees with a precept issued or an act performed by a police officer has the right to file an appeal with the head of the police authority within ten calendar days as of receipt of the precept or performance of the act.

(2) The filing of an appeal does not relieve the security firm or the authority with an in-house guarding unit of the obligation to comply with the precept issued by the police official.

(3) The head of the police authority shall review the appeal within one month as of receiving the appeal and shall make one of the following decisions:

- 1) to leave the precept or act in force;
- 2) to amend the precept or act or to revoke it.

(4) The decision shall be delivered to the complainant against a signature or sent by registered letter within ten days as of the decision being taken.

Chapter 11

Liability

§ 60. Interference with exercise of state supervision

(1) A legal person who obstructs state supervision, refuses to submit documents or information necessary for supervision or fails to submit such documents or information on time, submits false information or submits documents or information in a manner which does not permit supervision to be exercised shall be punished by a fine of up to 20 000 kroons.

(2) The General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 82, 480; 105, 612; 2003, 4, 22) and the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654) apply to the misdemeanours

specified in this section.

(3) The following authorities shall conduct extra-judicial proceedings in matters of the misdemeanours provided for in this section:

- 1) the Police Board;
- 2) police prefectures.

Chapter 12

Special Provisions

§ 61. Foreign security firms

An undertaking which or person who does not hold the licence set out in this Act may provide a security service covered in this Act to protect a citizen of a foreign state or his or her property on the basis of a one-off licence granted by the Police Board. Such a licence shall be granted at the request of the Ministry of Foreign Affairs, the Ministry of Defence or the Ministry of Internal Affairs.

Chapter 13

Implementing Provisions

§ 62. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84 and 85; 20, 118; 21, 128; 23, 146; 25, 153 and 154; 26, 156 and 160; 30 correction notice; 51, 352) is amended as follows:

- 1) subsection (1¹) is added to § 183 in the following wording:

“(1¹) A state fee of 4000 kroons shall be paid for the issue or extension of a licence to provide a security service.”

- 2) section 197 is repealed.

§ 63. Transitional provisions

(1) A violation of the Security Services Act (RT I 1993, 75, 1100; 1995, 62, 1056; 1996, 49, 953; 2002, 61, 375) is also a basis for refusal to grant or extend a licence to provide a security service if the violation was committed during the two years prior to applying for the licence or the extension thereof.

(2) A licence to provide a security service which was granted prior to the entry into force of this Act remains valid until the expiry date indicated in the licence.

§ 64. Repeal of Security Services Act

The Security Services Act is repealed

§ 65. Entry into force of Act

The Security Act enters into force on 1 May 2004.

¹ *Riigi Teataja* = State Gazette

