



BERMUDA

PRIVATE INVESTIGATORS AND SECURITY GUARDS ACT 1974

1974 : 78

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*[preamble and words of enactment omitted]*

Interpretation

1 In this Act, unless the context otherwise requires—

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“Commissioner” means the Commissioner of Police and includes any person acting on his authority;

“licence” means a licence under this Act;

“licensee” means the holder of a licence;

“private investigator” means a person who investigates and furnishes information for hire or reward, including a person who—

- (a) searches for and furnishes information as to the personal character and actions of a person, or the character or kind of business or occupation of a person;
- (b) searches for offenders against the law; or
- (c) searches for missing persons or property;

“regulations” means regulations under section 16;

“security guard” means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property.

### Application of the Act

2 (1) This Act shall not apply to—

- (a) barristers and attorneys in the practice of their profession, or to their employees while acting in the usual and regular scope of their employment;
- (b) persons who search for and furnish information—
  - (i) as to the financial credit rating of persons;
  - (ii) to employers as to the qualifications and suitability of their employees or prospective employees;
  - (iii) as to the qualifications and suitability of applicants for insurance and indemnity bonds, and who do not otherwise act as private investigators;
- (c) the Bermuda Police Service or any person acting under the authority of any public Act;
- (d) insurance adjusters and their employees while acting in the usual and regular scope of their employment;
- (e) insurance companies lawfully carrying on business in Bermuda and their employees while acting in the usual and regular scope of their employment;
- (f) private investigators and security guards who are permanently employed by one employer on or in the vicinity of that employer’s premises in a business or undertaking other than the business of providing private investigators or security guards and whose work is confined to the affairs of that employer;

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- (g) persons employed for the purpose of dock or airport security while acting in the usual and regular scope of their employment;
- (h) any class of persons excepted by the regulations.

(2) For the purposes of subsection (1), the term “permanently employed” does not include the categories of persons specified under section 4(2)(b), (c) and (d) of the Employment Act 2000.

(3) Notwithstanding subsection (2), the Commissioner of Police may in his discretion, exempt an individual in any of the categories of persons specified in subsection (2) as not permanently employed, from the training programme required by section 4A.

*[Section 2 amended by 1997:37 effective 6 May 1999; Section 2 amended by 2010 : 8 s. 2 effective 19 March 2010]*

Offences and penalties for unlicensed private investigators and security guards

- 3 (1) A person must not—
- (a) engage in the business of providing private investigators or security guards; or
  - (b) act as a private investigator or security guard,

unless he is the holder of a licence under section 4 or 6.

(2) A person must not hold himself out as a private investigator or a security guard or as being engaged in the business of providing private investigators or security guards unless he is licensed under section 4 or 6.

- (3) A person must not—
- (a) employ or engage another person to undertake any operation for which a licence is required under this Act; or
  - (b) direct another person to undertake any operation, for which a licence is required under this Act,

unless that other person holds a licence under section 4 or 6 of this Act authorising the undertaking of that activity.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable, on summary conviction—

- (a) in the case of a body corporate, to a fine not exceeding \$5,000; and
- (b) in the case of an individual, to a fine not exceeding \$2,000.

*[Section 3 amended by 2010 : 8 s. 3 effective 19 March 2010]*

Licences

- 4 (1) A licence shall be granted by the Commissioner and shall—
- (a) be in the prescribed form;

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- (b) not be transferable;
- (c) be issued on the payment of such fee as may be prescribed therefor under the Government Fees Act 1965 [*title 15 item 18*];
- (d) be valid for a period of one year commencing on the 1st day of April in any year and terminating on the 31st day of March of the next succeeding year;
- (e) specify the conditions subject to which it is granted.

(2) An application for a licence or the renewal of a licence shall be made in such manner as the Commissioner may determine and shall be accompanied by a non-refundable application fee prescribed under the Government Fees Act 1965.

(3) The Commissioner may make such inquiry and investigation as he regards appropriate regarding the character, antecedents, financial position and competence of an applicant for a licence.

*[Section 4 subsection (2) repealed and substituted by 2011 : 21 s. 2 effective 5 July 2011]*

### Training and certification

4A Before a licence is issued to an applicant under section 4, the Commissioner shall certify that the applicant has successfully completed a training programme—

- (a) certified by the Commissioner by publication in the Gazette, as suitable for the induction of private investigators and security guards; and
- (b) delivered by a provider the Commissioner has certified by publication in the Gazette, as suitable to deliver the programme .

*[Section 4A inserted by 2010 : 8 s. 4 effective 19 March 2010; Section 4A repealed and substituted by 2011 : 21 s. 3 effective 5 July 2011]*

### Refusal of licences

5 The Commissioner may refuse to issue a licence to an applicant or may refuse to issue a licence to an applicant for a specified period, on any of the following grounds—

- (a) that the applicant has been convicted of any offence against this Act; or
- (ab) that the licensee has been convicted of an offence under the Criminal Code or of any offence of which violence or dishonesty is an element;
- (b) that he is not satisfied as to the character or antecedents or competence of the applicant; or
- (c) in the case of an applicant for a licence to engage in the business of providing private investigators or security guards, that the Commissioner is not satisfied as to the financial position of the applicant.

*[Section 5 amended by 2011 : 21 s. 4 effective 5 July 2011]*

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### Temporary licences

6 (1) Where a person applies for a licence to act as a private investigator or security guard the Commissioner may, pending his decision, issue a temporary licence so to act for a period stated in the licence, but not exceeding three months.

(2) Where a person who is licensed to engage in the business of providing private investigators or security guards dies, the Commissioner may grant to his executor or administrator a temporary licence, valid for such period as shall be specified therein, and all licensed employees of a deceased licensee at the time of his death shall be deemed to be licensed as employees of such executor or administrator.

### Change of address

6A (1) A person to whom a licence has been issued under section 4 or 6 must notify the Commissioner of any change of address within thirty days of that change.

(2) A person who fails to comply with subsection (1) commits an offence and is liable—

- (a) in the case of a body corporate, to a fine not exceeding \$5,000; and
- (b) in the case of an individual, to a fine not exceeding \$2,000.

*[Section 6A inserted by 2010 : 8 s. 5 effective 19 March 2010]*

### Suspension and cancellation

7 The Commissioner may, after giving the licensee an opportunity to be heard, suspend or cancel a licence where—

- (a) the licensee is convicted of an offence under this Act;
- (b) the licensee is convicted of an offence under the Criminal Code [*title 8 item 31*] or of any offence of which violence or dishonesty is an element;
- (c) the licensee is in breach of a condition of the licence; or
- (d) in the opinion of the Commissioner, to do so is in the public interest.

### Appeals

8 (1) Any person dissatisfied with a decision of the Commissioner—

- (a) whereby the renewal of a licence previously held by him during the preceding annual licence period is refused or granted subject to conditions not imposed on the previous licence;
- (b) acting under the authority of section 7,

may within fourteen days of receipt of notification of such decision by notice in writing to the Commissioner accompanied by such fee as may be prescribed under the Government Fees Act 1965 [*title 15 item 18*] appeal to the Governor against such decision.

(2) The Commissioner shall, upon the request of a person who is appealing to the Governor under this section, give written reasons for the decision appealed against.

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(3) Any person appealing under this section shall be entitled, within such period as the Governor may fix, to make such written representations in the matter as he shall think fit.

(4) On any appeal under this section the Governor may make such order as he thinks fit.

(5) In the exercise of his powers under this section the Governor shall act after consultation with the Governor's Council.

### Cancellation of licence on termination of employment

9 (1) The licence of a private investigator or security guard shall be cancelled by operation of law upon the termination of the employment in respect of which it was issued.

(2) When a licensed private investigator or security guard ceases to be employed as such, he shall give his licence immediately to his employer who shall forward it to the Commissioner.

(3) Every person who is licensed to engage in the business of providing private investigators or security guards shall immediately upon the termination of such business forward to the Commissioner his licence together with the licences of his employees.

(4) Any person who, without reasonable excuse, fails to—

(a) give his licence to his employer as required by subsection (2);

(b) forward a licence to the Commissioner as soon as reasonably practicable after he is required so to forward it under this section,

commits an offence:

Punishment on summary conviction: a fine of \$100.

### Register of licensed private investigators and security guards

9A (1) The Commissioner shall cause to be kept and maintained a Register of private investigators and security guards (in this Act referred to as "the Register") containing the names of private investigators and security guards licensed under section 4, and such other particulars respecting those persons as this Act may require or as may from time to time be prescribed by regulations made under this Act.

(2) The Commissioner shall cause to be published in the Gazette, as soon as may be practicable after the first day of January in each year, a list of names entered in the Register on that day; and a copy of the Gazette containing the most recent list so published shall be prima facie, evidence in all courts that the persons whose names are included therein are licensed private investigators and security guards; and the absence of the name of any person from the said list shall be prima facie, evidence that that person is not a licensed private investigator or security guard.

(3) In the case of any person whose name does not appear in the list referred to under subsection (2), a certificate signed by the Commissioner of the entry of the name of such person in the Register and of the date of such entry shall be prima facie, evidence—

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- (a) that the person is a licensed private investigator or security guard; and
- (b) of the date on which the person became a licensed private investigator or security guard.

(4) In the case of any person whose name appears on the list referred to under subsection (2), a certificate signed by the Commissioner of the striking off or removal of the name of that person from the list or of his suspension from operating under this Act and of the date of the striking off or removal or suspension, shall be prima facie, evidence—

- (a) that he is not a licensed private investigator or security guard, or as the case may be, he has been suspended from operating as a private investigator or security guard; and
- (b) of the date on which he ceased by virtue of the striking off or removal, to be a licensed private investigator or security guard, or, as the case may be, he was suspended from operating as such.

(5) A person may, at any reasonable time and on payment of any fee prescribed under the Government Fees Regulations 1976, inspect the Register.

*[Section 9A inserted by 2010 : 8 s. 6 effective 19 March 2010; Section 9A amended by 2011 : 21 s. 5 effective 5 July 2011]*

Employer to ensure employees licensed

10 *[Repealed by 2010 : 8 s. 7.]*

*[Section 10 repealed by 2010 : 8 s. 7 effective 19 March 2010]*

Name of business

11 (1) No person shall engage in the business of providing private investigators or security guards in a name other than that in which he is licensed.

(2) Any person who contravenes the provisions of subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$1,000.

Means of identification

12 (1) Every private investigator shall, while investigating, carry on his person his licence and shall produce it for inspection at the request of any police officer or other person having reasonable grounds therefor.

(2) Every security guard shall wear a badge of a design, and in the manner, prescribed in the regulations, while acting as a security guard.

(3) Every security guard while on duty shall carry on his person his licence and shall produce it for inspection at the request of any police officer or other person having reasonable grounds therefor.

(4) Any private investigator or security guard who contravenes this section commits an offence:

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Punishment on summary conviction: a fine of \$500

### Information

13 (1) The Commissioner may, for the purposes of this Act, by notice in writing, require any licensee to furnish to him, within the time specified in the notice, such information, being information relevant to the discharge by the Commissioner of his functions under this Act, as the Commissioner specifies.

(2) Any person who fails to comply with a notice under this section commits an offence:

Punishment on summary conviction: a fine of \$500.

### Offences

14 (1) Every person who—

- (a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the regulations; or
- (b) being a licensee, fails to comply with any condition of his licence; or
- (c) fails to keep any books or records or furnish any return required to be kept or furnished under the regulations,

commits an offence:

Punishment on summary conviction: a fine of \$1,000.

(2) Any person who with intent to deceive impersonates a private investigator or a security guard, or makes any statement or does any act calculated falsely to suggest that he is such an investigator or a guard, commits an offence:

Punishment on summary conviction: imprisonment for 1 year.

### Evidence

15 A certificate of the Commissioner—

- (a) that a person was or was not, at any date, the holder of a licence;
- (b) as to the conditions subject to which any licence was issued;
- (c) that any document required to be forwarded to the Commissioner under this Act has, or has not, been forwarded, and if forwarded, the date upon which it was received,

shall be sufficient evidence of the fact until the contrary is proved.

### Regulations

16 (1) The Governor may make regulations—

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- (a) prescribing the classes of persons who shall be exempt from this Act or from any provision thereof, in addition to those classes of persons mentioned in section 2;
- (b) prescribing the forms to be used for the purposes of this Act;
- (c) requiring the keeping of such books and records and the furnishing of such information and returns by licensees as are prescribed in the regulations;
- (d) governing the badges of security guards;
- (da) prescribing the standards, methods and procedures for the training of private investigators and security guards, before certification;
- (db) prescribing particulars to be contained in the Register;
- (e) generally for the better carrying out of the objects and purposes of this Act.

(2) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to regulations made under this section.

*[Section 16 subsection (1) amended by 2010 : 8 s. 8 effective 19 March 2010; Section 16 subsection (1) (db) amended by 2011 : 21 s. 5 effective 5 July 2011]*

### Transitional

17 *[omitted]*

### Commencement

18 *[omitted]*

[Assent Date: 5 July 1974]

[this Act was brought into operation by SR&O 48/1975 on 1 January 1975]

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### *[Amended by:*

1977 : 35

1997 : 37

2010 : 8

2011 : 21]