

No. 11 of 2006.

*The Private Security Registration
Act, 2006.*

1 ANTIGUA
AND
BARBUDA



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

13th October, 2006

ANTIGUA AND BARBUDA

No. 11 of 2006

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

*[Published in the Official Gazette Vol. XXVI No.61
dated 26th October, 2006.]*

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART 1

PRELIMINARY

1. This Act may be cited as the Private Security Registration Act, 2006, and shall come into operation on such date as the minister may, by notice published in the *Gazette*, appoint. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“Commissioner” means the Commissioner of Police;

“Council” means the National Security Council to be established under the National Security Act;

“employer” means the owner or manager of a private security agency; Cap 330.

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“independent private security provider” means an individual providing private security services on a contractual basis;

“Minister” means the minister responsible for National Security;

“Police Service” means the Police Service established under the Police Act;

“precept” means a certificate issued under the hand of the Commissioner authorising the security guard named therein to act as a constable;

“precepted security guard” means a security guard to whom a precept has been issued;

“private investigator” means a person who performs, on a contractual basis, work involving the search for evidence, facts or information, including surveillance services;

“private security agency” or “agency” means a sole trader, firm, partnership or body corporate registered under the Companies Act, 1996, or the Business laws of Antigua and Barbuda which employs security guards for the protection of persons and property, including its employees and property or the installation of electronic security systems and monitoring services and is approved for that purpose by the Council;

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

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

PART 2

LICENCES

Prohibition on
operation
without a
licence.

3. (1) Subject to subsection (2) no person company or entity of whatsoever description shall, after the commencement of this Act, operate a private security agency or act as a private

investigator or an independent private security provider or employ security guards without first obtaining a licence from the Council so to do.

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

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

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

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

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

Application for
issue of a licence.

- (a) a valid Police Certificate of Character, and where the applicant is a body corporate, a valid Police Certificate of Character in respect of each Director;
- (b) a certified copy of the Certificate of Incorporation where the applicant is a body corporate and certified copies of other documents issued by the Companies' Registry in respect of the applicant's incorporation;
- (c) where the applicant is not a body corporate a certified copy of the Certificate of Registration under the relevant Business law;
- (d) a copy of the certificate of registration under the Income Tax Act or the Personal Income Tax Act, 2005, as applicable and evidence that there are no outstanding amounts payable under these Acts by the applicant.

Cap 212.

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- Cap 408.
- (e) in the case of an agency evidence that the applicant is registered as an employer under the Social Security Act, Medical Benefit Act and the Education Levy Act or self employed person and that there are no outstanding amounts payable under these Acts by the applicant; and
 - (f) in the case of a private investigator or an independent private security provider proof that the applicant—
 - (i) is a citizen of or a person who resides in Antigua and Barbuda;
 - (ii) is over eighteen years of age;
 - (iii) is of sound health, as evidenced by a certificate issued by a registered medical practitioner; and
 - (iv) has passed all required drug test for any of the controlled Drugs listed in the First Schedule to the Misuse of Drugs Act.
- Cap 283.

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

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

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

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

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

5. (1) A licence shall be renewable every year from its date of issue.

Application for
renewal of a
licence.

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

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

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

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

Refusal to grant
or renew licence.

(2) The Council may refuse to issue or renew the licence where the applicant does not meet the requirements of this Act

or in any case where the Council is satisfied that the applicant is not a fit and proper agency or person to be granted a licence.

Licence fee.

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

Licence to be issued by Council.

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

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

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

Inspection of premises

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

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

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

- (a) admission to any agency has been refused or that an application for admission would defeat the object of entry; and

- (b) there is reasonable ground for entry into the premises for the purpose of an inspection or search, the magistrate may, by warrant under his hand, authorise entry.

(4) Every warrant issued under this section shall continue in force for such time as the Magistrate may prescribe.

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

(6) A person who—

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

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

Suspension or
revocation of
licence.

(2) Upon such report being made, the Council shall give the security service provider the opportunity of being heard and may, if the Council deems such action to be reasonable in the circumstances, for such period of the council may determine, or revoke the licence.

11. A person who operates as a security service provider without a licence or after a licence has been suspended or revoke commits an offence and is liable on summary conviction to a fine

Operating
without a licence.

of fifty thousand dollars and to imprisonment for three years.

PART 3

SECURITY GUARDS

Qualifications
for employment
of security
guards.

Cap 283.

12. (1) A person who—

- (a) is a citizen of or resides in Antigua and Barbuda;
- (b) is over eighteen years of age;
- (c) is of sound health, as evidenced by a certificate issued by a registered medical practitioner;
- (d) passes all drug tests required by the Regulations for any of the controlled drugs listed in the First Schedule to the Misuse of Drugs Act;
- (e) is of good character, as evidenced by a valid Police Certificate of Character from the country or countries of residence for the preceding 7 years; and
- (f) successfully completes the programme of training approved by the Commissioner,

shall be eligible for employment as a security guard.

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

Application for
precept.

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

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

- (a) satisfied the requirements of section 12(1);
- (b) been employed by the agency for not less than six months; and

(c) successfully completed the precept examination as administered by the Commissioner.

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

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

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

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

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

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

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

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

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

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

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

PART 4

TERMINATION OF EMPLOYMENT

Resignation.

18. A security guard may resign his appointment on giving his employer one month's prior notice in writing of his intention to resign, pursuant to the provisions of the Antigua and Barbuda Labour Code.

Notice of
termination of
employment of
security guard.

19. (1) Where the employment of a security guard is terminated, whether by resignation, dismissal or otherwise, the employer shall, within one month of such termination, so inform the Commissioner and the reason therefor.

(2) Any employer who fails to report the termination of employment of a security guard and the reason therefor is liable on summary conviction to a fine of two thousand dollars.

Delivering up of
articles of
appointment and
equipment

20. (1) Where the employment of a security guard is terminated, whether by resignation, dismissal or otherwise, all powers and duties vested in him as a security guard shall immediately cease, and he shall, within fourteen days thereafter, deliver to his employer any articles of appointment and equipment which may have been supplied to him for the execution of his duties.

(2) The precept and Firearm User's Employee's Certificate in the name of the security guard shall be delivered up by the guard's former employer to the Commissioner of Police.

(3) Any person who contravenes this section is liable on summary conviction to a fine of three thousand dollars.

Delivering up
of articles of
appointment and
equipment
of deceased
security guard.

21. (1) When a security guard dies, any person in possession of any articles of appointment and equipment issued to the deceased for the execution of his duties shall, within twenty-one days after the guard's death, deliver such items to the deceased's employer or to the Superintendent of Police.

(2) Any person who, contravenes this section is liable on summary conviction of a fine of three thousand dollars.

PART 5**MISCELLANEOUS**

- 22.** (1) Any person who— Offences.
- (a) employs as an armed or unarmed security guard any person who is not registered as such under this Act;
 - (b) knowingly makes any false declaration or statement of a material nature in any application made under this Act;
 - (c) falsely represents himself to be the holder of a valid licence or registration card issued under this Act;
 - (d) knowingly hires employs or otherwise engages the services of any unlicensed security service provider; or
 - (e) otherwise fails to comply with the provisions of this Act or any regulations made hereunder.
- shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term of two years or to both.
- 23.** (1) A person aggrieved by any decision of the Council in respect to any decision made under this Act may, within one month from the receipt of the Council's decision, appeal to a judge in chambers whose decision is final. Appeal.
- 24.** The Minister may, by Order, subject to negative resolution of Parliament, increase the penalties contained in this Act. Amendment in respect of fines.
- 25.** Where a security guard sustains injury while in the discharge of his duty, the employer shall meet all the costs of medical attention, medical comfort and medicines, as required by law. Bodily injury to security guard.
- 26.** Any insurance benefits payable to an employer for or on behalf of a security guard shall be paid to the security guard, his beneficiary or estate, as the case may be. Insurance benefits.

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BARBUDA

Use of police titles prohibited.

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

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

Code of conduct.

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

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

(3) The code of conduct drawn up pursuant to subsection (1) of this section shall first be published by the Minister in the *Gazette* with a notice indicating that the Minister intends to issue such a code and inviting interested persons to submit to the Minister within a stated period, but not less than four weeks from the date of publication of the notice, any objections to or representations concerning the proposed code of conduct.

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

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

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

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

Regulations.

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

SCHEDULE

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

- (a) barristers or solicitors in the practice of their profession or their employees;
- (b) persons who search for and furnish information—
 - (i) as to the financial credit rating of persons,
 - (ii) to employers as to the qualifications and suitability of their employees or prospective employees, or
 - (iii) as to the qualifications and suitability of applicants for insurance and indemnity bonds,and who do not otherwise act as private investigators;
- (c) insurance adjusters and their employees licensed under the Insurance Act while acting in the usual and regular scope of their employment;
- (d) insurance companies and their employees licensed under the Insurance Act while acting in the usual and regular scope of their employment;
- (e) private investigators and security guards who are permanently employed by one employer in a business or undertaking other than the business of providing private investigators or security guards and whose work is confined to the affairs of that employer;
- (f) persons residing outside Antigua and Barbuda who are employees of private investigation or security guard agencies licensed or registered in a jurisdiction outside Antigua and Barbuda who, on behalf of an employer or client, come into Antigua and Barbuda solely for the purpose of an investigation or inquiry; and
- (g) any class of persons exempted by the regulations.

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BARBUDA

Passed by the House of Representatives
this 7th day of September, 2006.

Passed by the Senate this 23rd day
of August, 2006.

D. Giselle Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

Yvonne Henry
Clerk to the House of Representatives.

Yvonne Henry
Clerk to the Senate.

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THE PRIVATE SECURITY REGISTRATION ACT, 2006

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