

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE FOR THE CONTROL AND
REGULATION OF PRIVATE SECURITY SERVICES; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

THE PRIVATE SECURITY SERVICES BILL, 2007

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to establish a licensing regime for security technicians, private security guards and their employers.

Part I of the Bill contains clauses 1 to 3 which are preliminary provisions.

Clause 1 provides the short title and commencement of the legislation.

Clause 2 sets out definitions of various terms used in the legislation.

Clause 3 exempts certain persons from the ambit of the legislation.

Part II of the Bill contains clauses 4 to 11 and deals with licensing under the legislation.

Clause 4 prohibits persons from providing security guards and security technicians, without the requisite licence.

Clause 5 provides for lodgement of applications for licences with the Commissioner of Police, who may investigate the applicant's criminal record, finances and other relevant matters.

Clause 6 empowers the Commissioner to grant licences and prescribes the grounds on which he may decline to do so.

Clause 7 provides for the form and duration of a licence and for payment of a fee upon its issue.

Clause 8 provides for the renewal of licences.

Clause 9 allows the Commissioner to grant a licence of short duration to –

- (a) a security technician or security guard (so that he can work while his application is being considered);
- (b) a security guard (so that he can protect a person who is visiting the Islands); or
- (c) a security firm in cases where the existing licensee dies (so that business may continue pending the issue of a further licence).

Clause 10 allows the Commissioner to cancel or suspend a licence where the licensee is in breach of the legislation or the conditions of his licence or has been guilty of certain offences.

Clause 11 affords an appeal to licensees or applicants for licences who are dissatisfied with decisions of the Commissioner in relation to them. The appeal is to a summary court.

Part III contains clauses 12 to 19 and constitutes various offences under the legislation.

Clause 12 creates offences of engaging in a business of providing security guards or security technicians, without a licence. It would also be an offence to act as a security guard or security technician, without a licence.

Clause 13 requires a security firm to ensure that all its electronic security technicians and security guards are licensed.

Clause 14 requires a licence to be surrendered when the holder, in the case of any security technician or security guard, ceases to be employed or, in the case of a security firm, ceases to carry on business.

Clause 15 prohibits a security firm from trading under a name that is not its licensed name.

Clause 16 requires security technicians and security guards to carry their licences and produce them for inspection by police and others where appropriate.

Clause 17 empowers the Commissioner to compel any licensee to provide information relevant to the administration of the legislation.

Clause 18 creates offences in connection with applications, statements and records.

Clause 19 enables disqualification of convicted licensees, by Court order.

Part IV contains clauses 20 to 24 and deals with a miscellany of matters.

Clause 20 empowers the Commissioner of Police to delegate his functions under the legislation.

Clause 21 provides that a licensed security guard may be authorised by the conditions of his licence to carry specified weapons.

Clause 22 enables the Commissioner to maintain a register showing the name of every person licensed under the legislation.

Clause 23 provides for certain averments by certificate of the Commissioner for the purposes of legal proceedings.

Clause 24 provides for the making of regulations by the Governor in Cabinet for the purposes of the proposed legislation.

Clause 25 contains transitional provisions.

THE PRIVATE SECURITY SERVICES BILL, 2007

ARRANGEMENT OF CLAUSES

PART I - PRELIMINARY

1. Short title and commencement.
2. Interpretation.
3. Exemption of certain persons.

PART II - LICENSING

4. Security businesses, technicians and guards to be licensed.
5. Application for licence.
6. Determination of application for licence.
7. Form and issue of licence.
8. Renewal of licence.
9. Temporary licence.
10. Suspension or cancellation of licence.
11. Appeals.

PART III - OFFENCES

12. Unlicensed activity.
13. Unlicensed employees.
14. Cessation of business or employment of licensee.
15. Name of business.
16. Identification of security guards.
17. Information.
18. Offences in connection with documents.
19. Disqualification of licensee by court.

PART IV - MISCELLANEOUS

20. Functions of the Commissioner.
21. Authorised weapons.
22. Register
23. Evidence..
24. Regulations.
25. Transitional provisions.

CAYMAN ISLANDS

**A BILL FOR A LAW TO PROVIDE FOR THE CONTROL AND
REGULATION OF PRIVATE SECURITY SERVICES; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

PART I - PRELIMINARY

1. (1) This Law may be cited as the Private Security Services Law, 2007. Short title and
commencement
- (2) This Law shall come into force on such date as may be appointed by order made by the Governor in Cabinet.
2. (1) In this Law - Interpretation
- “Commissioner” means the Commissioner of Police;
- “Governor” means the Governor in Cabinet;
- “licence” means a licence issued under this Law;
- “licensee” means a person holding a licence under this Law;
- “security business” means –
- (a) the business of providing (as a principal business) any or all of the following -
 - (i) electronic security technicians;

- (ii) security guards;
 - (iii) security services by means of an electronic security system;
 - (iv) services in respect of the design, installation or maintenance of electronic security systems; and
 - (v) such services as the Governor may specify by notice published in the Gazette; or
- (b) the business of operating as an agent of a business mentioned in paragraph (a);

“security business licence” means a licence referred to in section 4(1);

“security guard” means a person who, in the course of his employment, guards or patrols for the purpose of protecting persons or property, but does not include -

- (a) a constable or special constable acting in the performance of his duties as such; or
- (b) a public officer performing his functions under any Law;

“security guard’s licence” means a licence referred to in section 4(3);

“security technician” means a person who, in the course of his employment, provides technical services in a security business;

“security technician’s licence” means a licence referred to in section 4(2); and

“visitor” means a person arriving in the Islands for a visit of not more than three months’ duration.

(2) For the purposes of paragraph (a) of the definition of “security business” set out in subsection (1), any question as to whether the provision of a service is the principal business of any person, shall be determined by the Commissioner.

Exemption of certain persons

3. This Law shall not apply to a person of a prescribed class or description.

PART II - LICENSING

Security businesses, technicians and guards to be licensed

4. (1) No person shall carry on a security business unless he is the holder of a licence authorising him to do so.

(2) No person shall act as a security technician unless he is the holder of a licence authorising him to do so.

(3) No person shall act as a security guard unless he is the holder of a licence authorising him to do so.

5. (1) A person of or above the age of eighteen years may apply to the Commissioner for a licence. Application for licence

(2) Application for a licence shall be made in the prescribed form.

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

6. (1) The Commissioner may issue the licence sought by an applicant, or may decline to do so on any of the following grounds - Determination of application for licence

- (a) the applicant is disqualified from holding or obtaining a licence by virtue of an order made by a court under section 19;
- (b) the applicant has been convicted of an offence under this Law;
- (c) the Commissioner is not satisfied as to the character, antecedents or competence of the applicant; or
- (d) in the case of an applicant for a security business licence, the Commissioner is not satisfied as to the financial position of the applicant.

(2) Without limiting the generality of subsection (1)(c), the Commissioner is entitled to consider under that paragraph, insofar as it relates to the competence of an applicant for a security business licence -

- (a) the applicant's understanding of modern security systems, technology and methods;
- (b) the applicant's understanding of civil rights of citizens; and
- (c) the applicant's ability to provide, or procure the provision of, suitable courses of training for security technicians and security guards proposed to be employed in the business.

7. (1) A licence shall be issued in the prescribed form. Form and issue of licence

(2) A licence shall be subject to such conditions, if any, as may be prescribed or as the Commissioner may think fit to impose upon it -

- (a) by endorsement upon the licence at the time of its issue or renewal; or
- (b) by notice in writing served on the licensee at any time during its currency.

(3) A licence shall not be issued or renewed except on payment of the prescribed fee.

(4) There is no property in a licence, and a licence shall not be capable of being sold, leased, pledged, transferred or otherwise dealt with.

(5) A security business licence shall remain in force for a period of one year from the date of its issue, but may be renewed on application in accordance with section 8.

(6) A security technician's licence or security guard's licence, as the case may be, shall remain in force for a period of twelve months from the date of its issue, but may be renewed on application in accordance with section 8.

Renewal of licence

8. (1) Application to renew a licence shall be lodged not later than thirty days before expiry of the current licence.

(2) The Commissioner may, in his discretion, accept an application for renewal which is lodged late.

Temporary licence

9. (1) Where a person applies for a security technician's licence or security guard's licence, the Commissioner may, pending his decision, issue a temporary licence which shall be valid for a period, not exceeding three months, specified in the licence.

(2) Where a person applies for a security guard's licence for the purpose of protecting a visitor, the Commissioner may issue a temporary licence which shall be valid for a period, not exceeding forty-five days, specified in the licence.

(3) Where the holder of a security business licence 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 the deceased licensee at the time of his death shall be deemed to be licensed as employees of the executor or administrator.

Suspension or cancellation of licence

10. After giving the licensee an opportunity to be heard, the Commissioner may by notice in writing suspend or cancel a licence, where -

- (a) the licensee is convicted of an offence under this Law;
- (b) the licensee is convicted of any offence of which violence or dishonesty is an element; or
- (c) the licensee is in breach of a condition of the licence.

Appeals

11. (1) Whenever the Commissioner decides -

- (a) not to grant, or not to renew, a licence;
- (b) to impose a particular condition on a licence; or
- (c) to suspend or cancel a licence,

he shall give notice in writing to the applicant or licensee, as the case may be, of the decision and of the reasons for the decision.

(2) A person aggrieved by a decision of the Commissioner referred to in subsection (1) may appeal to a court of summary jurisdiction.

(3) The appeal shall be instituted, in accordance with rules of court, not later than thirty days after receipt of notice of the decision concerned.

(3) The court may affirm, quash or vary the decision of the Commissioner.

(4) Such rules as may be necessary or expedient for the operation of this section may be made under section 44 of the Summary Jurisdiction Law (2006 Revision).

(2006 Revision)

PART III - OFFENCES

12. (1) A person who, not being the holder of a security business licence, carries on a security business commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Unlicensed activity

(2) A person who, not being the holder of a security technician's licence -

- (a) acts as a security technician; or
- (b) offers himself for hire as a security technician,

commits an offence and is liable on summary conviction to a fine of one thousand dollars.

(3) A person who, not being the holder of a security guard's licence -

- (a) acts as a security guard; or
- (b) offers himself for hire as a security guard,

commits an offence and is liable on summary conviction to a fine of one thousand dollars.

13. A person engaged in a business of providing security guards who employs as a security guard a person who is not the holder of a security guard's licence commits an offence and is liable on summary conviction to a fine of two thousand dollars.

Unlicensed employees

14. (1) The holder of a security business licence who ceases to be engaged in the business of providing security guards shall, within seven days of the cessation of engagement, forward to the Commissioner both his licence and the licences of his employees.

Cessation of business or employment of licensee

(2) A security technician or security guard who ceases to be employed as such shall, within seven days of the cessation of employment, deliver his licence to his employer who shall, within seven days of receipt of the licence, forward it to the Commissioner together with a statement setting out the circumstances relating to the cessation of employment.

(3) A person who, without reasonable excuse, fails to deliver his licence to his employer as required by this section commits an offence and is liable on summary conviction to a fine of five hundred dollars.

(4) A person who, without reasonable excuse, fails to forward to the Commissioner a licence and a statement setting out the circumstances relating to the cessation of employment, as required by this section, commits an offence and is liable on summary conviction to a fine of two thousand dollars.

Name of business 15. The holder of a security business licence who carries on a security business in a name other than the name specified in the licence commits an offence and is liable on summary conviction to a fine of one thousand dollars.

Identification of security guards 16. (1) Every security technician and security guard shall while on duty carry his licence, and shall produce it for inspection at the request of any constable or other person having reasonable grounds to require its production.

(2) A security technician or security guard who contravenes this section commits an offence and is liable on summary conviction to a fine of five hundred dollars.

Information 17. (1) The Commissioner may, for the purposes of this Law, 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 Law, as the notice may specify.

(2) A person who fails to comply with a notice under this section commits an offence and is liable on summary conviction to a fine of one thousand dollars.

Offences in connection with documents 18. (1) A person who –
(a) in any application under this Law or in any statement required to be furnished under this Law, makes any statement that he knows is false or misleading in a material particular; or
(b) fails to keep any books or records or furnish any return required to be kept or furnished under the regulations,

commits an offence and is liable on summary conviction to a fine of one thousand dollars.

- (2) Any person who with intent to deceive -
 - (a) impersonates a security technician or security guard; or
 - (b) makes any statement or does any act to suggest that he is a security technician or security guard,

commits an offence and is liable on summary conviction to imprisonment for a term of one year.

19. Where a licensee is convicted of an offence under this Law, the court before which the licensee is convicted may, in addition to imposing any other penalty or sentence, order that the licensee be disqualified from holding or obtaining a licence, for such period not exceeding twelve months as the court deems appropriate; and the particulars of such conviction and disqualification shall be endorsed on any current licence held by the licensee.

Disqualification of licensee by court

PART IV - MISCELLANEOUS

20. (1) The Commissioner may, to such extent and subject to such restrictions and conditions as he may think proper, by written instrument delegate any of his functions under this Law (other than this power of delegation) to any constable; and references in this Law to the Commissioner are to be construed so as to include any constable to whom the Commissioner has so delegated his powers.

Functions of the Commissioner

(2) A delegation under subsection (1) is revocable at will and does not prevent the exercise by the Commissioner of any function so delegated.

21. (1) Without limiting the generality of section 7(2), the conditions of a security guard's licence may authorise the carriage by the security guard of such weapons (in this section referred to as "authorised weapons") as may be specified by endorsement, under section 7(2)(a), upon his licence.

Authorised weapons

(2) By order under his hand the Chief Secretary may, on such conditions as may be prescribed by the order, permit the importation, manufacture or sale of or other dealing with articles of a kind approved by him for use as authorised weapons by security guards.

(3) No offence is committed under the Penal Code (2006 Revision) or any other Law by reason of –

(2006 Revision)

- (a) the possession or carriage by a security guard of an authorised weapon; or

- (b) the importation, manufacture or sale of, or other dealing with, an article in accordance with an order under subsection (2).

(2006 Revision)

(4) Nothing in this Law shall be construed as authorising the importation, manufacture, sale, possession or carriage of, or dealing with, a firearm otherwise than under and subject to the Firearms Law (2006 Revision).

Register

22. (1) The Commissioner shall keep a register in which shall be entered the name of every person licensed under this Law.

(2) Each entry in the register shall contain the following particulars in relation to each person registered -

- (a) his address;
- (b) the date on which his licence was issued;
- (c) particulars of any disqualification ordered by a court under section 19; and
- (d) such other relevant particulars as the Commissioner may specify.

(3) The register shall be kept at such place as the Commissioner may from time to time determine.

(4) The Commissioner shall make such alterations to the particulars of persons registered as are notified to him and shall remove from the register the name of a registered person who is deceased or who ceases to be licensed.

(5) A registered person shall inform the Commissioner in a timely manner of any change in his particulars under subsection (2)(a) and (d).

Evidence

23. A certificate under the hand of the Commissioner specifying –

- (a) that a person was or was not, at a particular date or during a particular period, the holder of a licence;
- (b) conditions to which, at a particular date or during a particular period, a licence was subject; or
- (c) that a document required to be forwarded to the Commissioner under this Law was, or was not, forwarded, or was received on a particular date,

shall be sufficient evidence of the matters specified until the contrary is proved.

Regulations

24. (1) The Governor may make regulations –

- (a) prescribing the time, manner and form of making any application, and the information and evidence to be submitted in connection therewith;

- (b) requiring the keeping by licensees of books and records and providing for their inspection;
- (c) requiring the furnishing of periodical or other returns by licensees;
- (d) prescribing courses of training as pre-requisites for licensing of unarmed security guards, including courses in the management and use of firearms and other weapons;
- (e) requiring, regulating or prohibiting any matter with respect to the emblems, badges, insignia, uniforms, forms of identification and accessories to be worn, carried or used by security technicians and security guards or displayed on vehicles used by them;
- (f) prescribing fees for the issue and renewal of licences;
- (g) prescribing classes or descriptions of persons who shall be exempt from this Law or any specified provisions of this Law;
- (h) prescribing the forms to be used for the purposes of this Law;
- (i) prescribing any matter that by this Law is required or permitted to be prescribed; and
- (j) generally for the better carrying out of the objects and purposes of this Law.

(2) Regulations made under this Law may create offences punishable by a fine not exceeding five thousand dollars or imprisonment for a term not exceeding two years.

25. (1) A person who, immediately before the date of commencement of this Law, was carrying on a security business shall be deemed, for a period of six months commencing on that date, to be the holder of a security business licence.

Transitional provisions

(2) A person who, immediately before the date of commencement of this Law, was employed as a security technician or security guard shall be deemed, for a period of six months commencing on that date, to be the holder of a security technician's licence or security guard's licence, as the case may be.

(3) A person to whom subsection (1) or (2) applies and who desires to continue carrying on a security business or acting as a security technician or security guard, after the expiry of the period of six months referred to in those subsections may, not later than three months after the date of commencement of this Law, make application under section 5 for a licence authorising him to do so.

(4) Nothing in subsection (3) shall be construed as precluding the making of an application under section 5 at any time by a person to whom subsections (1) and (2) do not apply.

Passed by the Legislative Assembly the day of , 2007.

Speaker.

Clerk of the Legislative Assembly.