

CHAPTER 372E

PRIVATE INVESTIGATORS AND SECURITY GUARDS

1985-1

This Act came into operation on 10th December, 1985 by Proclamation (S.I. 1985 No. 195).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1987

1995

CHAPTER 372E

**PRIVATE INVESTIGATORS AND SECURITY GUARDS
1985-1**

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SCHEDULE

**BARBADOS****PRIVATE INVESTIGATORS AND SECURITY GUARDS
1985-1**

An Act to provide for the licensing and control of private investigators and security guards and for related matters.

[Commencement: 10th December, 1985]

PART I**CITATION AND INTERPRETATION****Citation**

1. This Act may be cited as the *Private Investigators and Security Guards Act*.

Definitions

2. For the purposes of this Act,
“agency” means any person, whether incorporated or not, who, for valuable consideration offers the services of private investigators or security guards;

“approved form” means any form approved by the Board for the purposes of this Act;

“Board” means the Private Investigators and Security Guards Licensing and Advisory Board established by section 3;

“Minister” means the Minister responsible for Defence and Security;

“prescribed fee” means a fee prescribed by the Board for the purposes of this Act.

PART II

ESTABLISHMENT OF PRIVATE INVESTIGATORS AND SECURITY GUARDS LICENSING AND ADVISORY BOARD

Establishment, constitution and functions of Board

3.(1) There is established a Board to be known as the Private Investigators and Security Guards Licensing and Advisory Board.

(2) The Schedule has effect in relation to the constitution of the Board and otherwise in relation thereto.

(3) The members of the Board and the Secretary to the Board are entitled to receive such remuneration as the Minister determines.

Functions of Board

4. The Board is responsible for the administration of this Act and for advising the Minister on such matters relating to private investigators and security guards as determined by the Minister.

Appointment of Secretary

5. The Minister shall by instrument in writing appoint a public officer to be Secretary to the Board.

PART III

MEANING OF PRIVATE INVESTIGATOR AND SECURITY GUARD AND
POWERS AND DUTIES THEREOF**Meaning of private investigator**

- 6.(1) Subject to subsection (2), “private investigator” is a person licensed under this Act to perform any of the following functions:
- (a) obtaining and furnishing information as to the personal character or actions of any person or as to the character or nature of the business or occupation of any person;
 - (b) searching for missing persons or property or obtaining information with respect thereto;
 - (c) obtaining and furnishing information as to the cause or origin of any fire, accident, or damage or injury to real or personal property;
 - (d) securing evidence to be used in civil or criminal proceedings;
 - (e) performs shopping or other services in civilian or plain clothes for a client for the purpose of reporting to him upon the conduct, integrity or trustworthiness of his employees or other persons.
- (2) A person is not a private investigator by reason only that
- (a) he seeks or obtains information for or supplies information to the Crown, a member of the police force or a statutory board;
 - (b) he seeks, obtains or supplies information to any person or company in the ordinary course of business;
 - (c) he is an attorney-at-law or a person employed by an attorney-at-law acting within the scope of his profession or employment;
 - (d) he carries on the business of a bank or a debt collecting agency;

- (e) he carries on the business of seeking or obtaining information for or supplying information to any business concerned with the dissemination of news to the public;
- (f) on behalf of a person he serves or attempts to serve on another person any writ, summons, notice or other document relating to any legal process;
- (g) on behalf of a person he exercises any right to re-possess any article pursuant to a hire-purchase agreement; or
- (h) he installs on premises any camera or similar device for the purpose of detecting the commission of an offence.

Meaning of security guard

7. A “security guard” is a person licensed under this Act to provide services for the protection of persons or property or to prevent the theft or the unlawful taking of property.

Powers of private investigator

8. A person licensed under this Act as a private investigator may perform any of the functions specified in section 6(1); but nothing in this Act confers any power on such a person to act in contravention of any enactment or rule of law in force in Barbados.

Powers of security guard

9.(1) Subject to subsection (2), a security guard may in the performance of his functions arrest without a warrant, any person

- (a) who is in breach of the peace or whom he reasonably believes to be in breach of the peace; or
- (b) who commits or attempts to commit treason or felony.

(2) Where a security guard makes an arrest under subsection (1), he shall, within a reasonable time thereafter, take the person arrested to a police station or before a magistrate.

Identification

10.(1) A private investigator or a security guard, shall on the request of a member of the police force, or his employer produce his instrument of authority.

(2) A security guard shall while performing his functions, wear the uniform prescribed by the Board.

(3) The licence or a certified copy thereof issued to an agency shall be displayed in a conspicuous position at the agency's principal place of business.

(4) A private investigator, security guard or agency who contravenes this section is guilty of an offence and liable on summary conviction to a fine of \$500 or imprisonment for 3 months.

Prohibitions

11.(1) Nothing in this Act authorises any person in the course of or in connection with the business of a private investigator or security guard to

(a) use or cause to be used any listening device to monitor, over-hear, or record a private conversation; or

(b) take or cause to be taken, or use or accept for use, any photograph, cinematograph picture or video-tape recording of another person,

without the prior written consent of that other person.

(2) A person who contravenes this section is guilty of an offence and is liable on conviction on indictment to a fine of \$5 000 or imprisonment for 12 months or both.

(3) For the purposes of this section, “private conversation” means any words spoken to another person in any of the following circumstances

- (a) in the circumstances that indicate that those persons desire the words to be heard or listened to only by themselves; or
- (b) in circumstances that indicate that either of those persons desire the words to be heard or listened to only by themselves or by some other person;

but does not include words spoken by one person to another in circumstances in which either of those persons ought reasonably to expect the words may be monitored, overheard or recorded by some other person who is not a person who has the consent, express or implied of either of those persons to do so.

Accounts

12.(1) A private investigator shall

- (a) within 7 days after being requested to do so by a client; or
- (b) if no request is made, within 1 month after the private investigator ceases to be engaged by a client,

render to that client a written statement of account setting out full particulars of all monies received by the private investigator for or on behalf of the client and the manner in which the monies were applied.

(2) A private investigator who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of \$500 or to imprisonment for 3 months.

PART IV

LICENSING OF PRIVATE INVESTIGATORS AND SECURITY GUARDS

Applications

13.(1) A person who, after 10th December, 1985 wishes to provide services as a private investigator or security guard or who wishes to operate an agency shall apply to the Board, in the approved form, for a licence.

(2) An agency that wishes to employ persons to assist private investigators employed by that agency must apply in the approved form to the Board.

Unlicensed persons

14.(1) No person may,

- (a) provide services as a private investigator or security guard; or
- (b) operate an agency engaged in the business of providing the services of private investigators or security guards,

unless he is licensed under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$5 000 or imprisonment for 2 years or both.

(3) Any person who, with intent to deceive, impersonates a private investigator or a security guard, or makes any statement or does any act calculated to suggest that he is such a private investigator or security guard, is guilty of an offence and is liable on conviction, on indictment, to a fine of \$5 000 or imprisonment for 2 years or both.

Content of application

15.(1) An application by an individual for a licence to provide services as a private investigator or security guard under section 13 must contain

- (a) the applicant's full name, address and date of birth;
 - (b) the applicant's educational background;
 - (c) the places at which the applicant was previously employed; and
 - (d) the service intended to be provided by the applicant.
- (2) The application must be accompanied by
- (a) a personal bond in an amount approved by the Board with one and more sureties; and
 - (b) a certificate of character from the Commissioner of Police and one other person acceptable to the Board.
- (3) An application to operate an agency must contain
- (a) the place of business of the applicant;
 - (b) in the case of an incorporated body, the names of the secretary, managing director and other directors; and
 - (c) in the case of an unincorporated body, the names of all the members or partners, as the case may be, thereof.
- (4) An applicant under subsection (3) must deposit securities with the Board in an amount approved by the Board.

Change in particulars

16.(1) Where there is a change in any of the particulars required to be submitted with an application, a licensee shall within 1 month of such change in particulars notify the Board thereof.

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100 and an additional fine of \$10 for every day or part thereof on which the offence continues after a conviction is first obtained.

Issue of licences

17.(1) Where the Board is satisfied on the evidence submitted that an applicant is qualified to be licensed, the Board may issue a licence to the applicant on payment of the prescribed fee.

(2) A licence is subject to such terms and conditions as are specified in the licence and

- (a) must be in the approved form;
- (b) is not transferable;
- (c) expires on 31st December in each year; and
- (d) is renewable in the month of January in each year upon application to the Board in the approved form and on payment of the prescribed fee.

(3) Notice of the issue of a licence under this section must be published in the *Official Gazette*.

Objections

18.(1) Any person may, within 1 month after the issue of a licence is notified in the *Official Gazette*, file with the Board an objection in respect of the issue of the licence.

(2) An objection must contain the grounds respecting the objection in an affidavit made by the objector.

(3) The objector must serve a copy of the objection on the licensee within 7 days after it is filed with the Board.

- (4) An objection may be made on any of the following grounds:
- (a) that the applicant is not of good character;
 - (b) that the applicant is bankrupt;
 - (c) that the applicant is guilty of conduct that renders him unfit to hold a licence;
 - (d) that the applicant has been convicted of an offence involving dishonesty;
 - (e) that the applicant is incapable of providing services as a private investigator or security guard.
- (5) The Board may, if it is satisfied that it is in the public interest to do so, suspend the licence until the objection is determined.

Refusal of licence

- 19.** The Board may refuse to issue a licence if
- (a) satisfactory evidence has not been produced as to the character of the applicant and where the applicant is a body corporate in respect of its managing director;
 - (b) it is satisfied that the applicant is not a fit and proper person to hold a licence;
 - (c) the applicant has been convicted of any offence involving dishonesty or, if the applicant is a body corporate any director has been so convicted;
 - (d) it considers that it is in the public interest to do so;
 - (e) the applicant is under the age of 18 years.

Revocation of licence

20.(1) The Board may by instrument in writing revoke, suspend or vary a licence

- (a) if it is satisfied that the licensee
 - (i) has ceased to carry on the business for which he is issued a license, or in the case of a body corporate is wound up,
 - (ii) has supplied false information in his application,
 - (iii) is no longer a fit and proper person to continue to hold a licence,
 - (iv) has been convicted of any offence involving dishonesty or in the case of a company any director has been convicted,
 - (v) has been convicted of any offence under this Act;
- (b) if it considers that it is in the public interest to do so;
- (c) if the licensee is in breach of any term or condition of the licence;
- (d) if he contravenes the code of conduct prescribed by the Board.

(2) Where the Board revokes, suspends or varies a licence under this section or section 19, the Board must inform the licensee, within 7 days of its decision and give reasons.

(3) Where a licence issued to an agency is revoked, the securities deposited with the Board in accordance with section 15(2) shall be retained by the Board until all debts due to the Crown by that agency are satisfied.

Condition for recovery of fees

21.(1) No person may bring any proceedings in court for the recovery of fees in respect of services provided by him after the expiration of 1 month from 10th December, 1985 unless the person is the holder of the appropriate licence under this Act.

(2) Fees earned in respect of services provided before 10th December, 1985 may be recovered by the person who rendered those services.

Notification

22.(1) The Board must publish in the *Official Gazette* notice of the issue, revocation, suspension or variation of a licence.

(2) The Board must keep a register of the names of persons licensed under this Act.

(3) The register must be open for public inspection at all reasonable times on payment of the prescribed fee.

Appeals

23. A person aggrieved by a decision of the Board under this Act may, within 1 month from the receipt of the Board's decision, appeal to a judge in chambers whose decision is final.

PART V

SPECIAL POWERS OF MAGISTRATE AND BOARD

Search

24. A magistrate, on being satisfied upon information that there is reason to believe that any place is used for the purpose of carrying on the business of a private investigator or security guard or an agency by any person other than a licensee under this Act, may issue a warrant to any member of the police force authorising him

- (a) to enter and search the premises and all persons found therein; and
- (b) to seize all documents and articles that he reasonably believes are being used or are intended to be used in connection with the business of a private investigator or security guard.

Obstruction etc. of search

- 25.** Any person who
- (a) refuses entry to a police officer duly authorised to enter and search premises in which that person is an occupant or has control;
 - (b) assaults, obstructs, hinders or delays a police officer in effecting any entrance which he is entitled to effect under this Act or in furtherance of any duty imposed on him under this Act;
 - (c) fails to comply with any lawful demand of the police officer in the execution of his duties under this Act;
 - (d) refuses, neglects or falsifies any information which may reasonably be required of him and which is within his power to give; or
 - (e) by the offer of any gratuity, bribe, promise or any other inducement prevents or attempts to prevent a police officer from performing his duties,

is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or imprisonment for 6 months or both.

Use of firearms etc.

26.(1) The Board may, upon receipt of an application in the approved form and after consultation with the Commissioner of Police, grant to an agency employing security guards permission to use firearms in the performance of certain prescribed functions on the following conditions

- (a) that the security guards to whom firearms are to be assigned are authorised for that purpose;
- (b) that the authorised security guards are licensed to use firearms under the *Firearms Act*, Cap. 179;
- (c) that the agency satisfies the Board that the authorised security guards have received special training in the use of firearms; and

- (d) that the agency satisfies the Board that the authorised security guards are familiar with rules respecting the use of firearms prescribed by the Board.
- (2) The Board may, upon receipt of an application in the approved form, grant to an agency employing security guards, permission for its security guards to use any other instrument of defence in the performance of their functions.
- (3) For the purposes of this section “instrument of defence” includes a truncheon, shock stick, security blanket or other like instrument that is permitted by the Board for use by security guards in the performance of their functions.

PART VI MISCELLANEOUS

Immunity

27. No liability attaches to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge of his duties under this Act.

Evidence

28. A document issued by the Board

- (a) that a person was or was not, at any date, the holder of a licence;
- (b) as to the conditions of a licence;
- (c) that any requirement under the Act has not be complied with,

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

Regulations

29. The Board may, with the approval of the Minister, make regulations generally to give effect to this Act and in particular in respect of

- (a) the classes of persons who are to be exempted from this Act or any provision thereof;
- (b) the books and records to be kept and the information to be furnished by a licensee;
- (c) the code of conduct for private investigators and security guards;
- (d) the use of firearms and other instruments of defence by security guards;
- (e) the uniforms to be worn by security guards; and
- (f) anything that is required or necessary to be prescribed for the purposes of this Act.

Crown

30. This Act binds the Crown.

SCHEDULE*(Section 3(2))*

The Board shall be constituted as follows:

- (a) the Permanent Secretary, Defence and Security Division, *ex officio*, who shall be chairman;
- (b) the Permanent Secretary, Ministry of Legal Affairs, *ex officio*;
- (c) the Commissioner of Police, *ex officio*, or his nominee;
- (d) 3 members appointed by the Minister, by instrument in writing, from the private sector.

2. The members of and the Secretary to the Board hold office for a period of 3 years and are eligible for re-appointment.

3. 4 members of the Board form a quorum.

4. All decisions of the Board are to be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal, the chairman or deputy chairman presiding at the meeting, has a casting vote.

5. The Minister shall cause the appointment, removal, resignation or death of the members of the Board and the Secretary to the Board to be notified in the *Official Gazette*.

6. An act or proceeding taken by the Board is not invalid by reason only of a vacancy in its membership, and notwithstanding the subsequent discovery of a defect in the appointment of a member, any such act or proceeding is valid and effectual as if that member was duly appointed.

7. The Board may regulate its own procedure.