



ST. CHRISTOPHER AND NEVIS

CHAPTER 19.18

PRIVATE INVESTIGATORS AND SECURITY GUARDS ACT

Revised Edition

showing the law as at 31 December 2009

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PRIVATE INVESTIGATORS AND SECURITY GUARDS ACT

Act 5 of 2004 ... in force 14th July 2004

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CHAPTER 19.18

PRIVATE INVESTIGATORS AND SECURITY GUARDS ACT

AN ACT TO PROVIDE FOR THE LICENSING AND CONTROL OF PRIVATE INVESTIGATORS AND SECURITY GUARDS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

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

Interpretation.

2. In this Act, unless the context otherwise requires—
“agency” means any person who, for valuable consideration, offers the services of private investigators or security guards;
“approved form” means any form approved by the Minister 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 National Security;
“person” includes a legal person;
“prescribed fee” means a fee prescribed by the Minister for the purposes of this Act.

PART II

ESTABLISHMENT OF PRIVATE INVESTIGATORS AND SECURITY GUARDS LICENSING AND ADVISORY BOARD

Establishment etc. 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 provisions of the Schedule to this Act shall have effect with respect to the constitution and proceedings of the Board.

Functions of the Board.

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

Appointment of Secretary.

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

PART III

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

6. (1) Subject to subsection (2), a private investigator is a person who is licensed under the provisions of this Act to perform any of the following functions, that is to say—

- (a) to obtain and furnish 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) to search for missing persons or property or to obtain information with respect to missing persons or property;
- (c) to obtain and furnish information as to the cause or origin of any fire, accident, or damage or injury to real or personal property;
- (d) to secure evidence to be used in civil or criminal proceedings; or
- (e) to perform shopping or other services in civilian or plain clothes for a client for the purpose of reporting to him or her upon the conduct, integrity or trustworthiness of his or her employees or other persons.

(2) A person shall not be a private investigator within the meaning of subsection (1) by reason only that—

- (a) he or she seeks or obtains information for or supplies information to the Crown, a member of the Police Force or a statutory board;
- (b) he or she seeks, obtains or supplies information to any person or company in the ordinary course of business;
- (c) he or she is an attorney-at-law or a person employed by an attorney-at-law acting within the scope of his or her profession or employment;
- (d) he or she carries on the business of a bank or a debt collecting agency;
- (e) he or she 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) he or she, on behalf of a person, serves or attempts to serve on another person any writ, summons, notice or other document relating to any legal process;
- (g) he or she, on behalf of a person, exercises any right to re-possess any article pursuant to a hire-purchase agreement; or
- (h) he or she 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 who is licensed under this Act as a private investigator may perform any of the functions specified in section 6(1), except that nothing in this Act confers any power on that person to act in contravention of any enactment or rule of law in force in Saint Christopher and Nevis.

Powers of security guard.

9. (1) A person who is licensed under this Act to act as a Security Guard may, in the performance of his or her functions, arrest, without a warrant, any person—

- (a) who is in breach of the peace or whom he or she 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 or she shall, within a reasonable time after the arrest, take the person arrested to a police station.

Identification.

10. (1) A private investigator or security guard shall, upon the request of a member of the Police Force, or his or her employer, produce his or her Identification Card.

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

(3) A licence or certified copy of the licence 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 or which, as the case may be, contravenes the provisions of this section commits an offence and liable, on summary conviction, to a fine of \$700 or imprisonment for a term of three months or both.

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, overhear, 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 the provisions of subsection (1) commits an offence and is liable, on conviction on indictment, to a fine of \$7,000 or imprisonment for a term of twelve 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, that is to say—

- (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 that the words may be monitored, overhead 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 seven days after being requested to do so by a client; or
- (b) if no request is made, within one 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) commits an offence and is liable, on summary conviction, to a fine of \$500 or imprisonment for a term of three months.

PART IV

LICENSING OF PRIVATE INVESTIGATORS AND SECURITY GUARDS.

Applications.

13. (1) A person who wishes—

- (a) to provide services as a private investigator or security guard; or
- (b) to operate an agency,

shall apply to the Board, in the approved form, for a licence.

(2) An agency which wishes to employ persons to assist private investigators employed by that agency shall apply to the Board, and the application shall be in the form approved by the Board.

Unlicensed persons.

14. (1) A person shall not—

- (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 that person is licensed under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction on indictment, to a fine of \$6,500 or imprisonment for a term of two years or both.

(3) A 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 or she is a private investigator or security guard, commits an offence and is liable, on conviction on indictment, to a fine of \$6,500 or imprisonment for a term of two 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 this Act shall contain the following particulars, that is to say—

- (a) the applicant's full names, address and date of birth;
- (b) the applicant's educational background;
- (c) the places at which the applicant was previously employed, and the service intended to be provided by the applicant.

(2) The application shall be accompanied by—

- (a) a personal bond in an amount approved by the Board with one or more sureties; and
- (b) a certificate of good character from the Chief of Police and one other person acceptable to the Board.

(3) An application to operate an agency shall contain the following particulars, that is to say—

- (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 the members or partners, as the case may be, of the body.

(4) An applicant referred to in subsection (3) shall 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 one month of the change in particulars, notify the Board of the change in particulars.

(2) A person who fails to comply with subsection (1) commits an offence and is liable, on summary conviction, to a fine of \$150 and an additional fine of \$15 for every day or part of the day on which the offence continues after a conviction is first obtained.

Issue of licence.

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 upon payment of the prescribed fee.

(2) A licence shall be subject to such terms and conditions as are specified in the licence, and—

- (a) shall be in the approved form;
- (b) shall not be transferable;
- (c) shall expire on 31st December in each year;
- (d) may be renewed in the month of January in each year upon application to the Board in the approved form, and upon payment of the prescribed fee.

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

Objections.

18. (1) Any person may, within one month after the notice referred to in section 17.(3) is published in the *Official Gazette*, file with the Board an objection in respect of the issue of the licence to which the notice relates.

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

(3) The objector shall serve a copy of the objection on the licensee within seven 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 or her 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 eighteen 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 or she was issued a licence, or in the case of a body corporate has been wound up,
 - (ii) has supplied false information in his or her 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 license is in breach of any term or condition of the licence;
- (d) if the licensee 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 shall inform the licensee, within seven 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.

Conditions for recovery of fees.

21. No person may bring any proceedings in court for the recovery of fees in respect of services provided by him or her after the commencement of this Act unless that person is the holder of an appropriate licence issued in accordance with the provisions of this Act.

Notification.

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

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

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

Appeals.

23. A person who is aggrieved by a decision of the Board under this Act may, within a period of one month from the receipt of the Board's decision, appeal to a judge in chambers, and the decision of the judge shall be final.

PART V

POWERS OF MAGISTRATE AND THE BOARD

Search.

24. A magistrate may, on being satisfied upon information given to the effect that there is reason to believe that any place is used or is intended to be 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, issue a warrant to any member of the Police Force authorising that person—

- (a) to enter and search the premises and all persons found on the premises; and
- (b) to seize any document and article that he or she reasonably believes is being used or is intended to be used in connection with the business of a private investigator or security guard.

Obstruction, etc., of search.

25. A 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 entry which he or she is entitled to effect under this Act or in furtherance of any duty imposed on him or her under this Act;
- (c) fails to comply with any lawful demand of the police officer in the execution of his or her duties under this Act;
- (d) refuses, neglects or falsifies any information which may reasonably be required of him or her and which is within his or her 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 or her duties,

commits an offence and is liable, on summary conviction, to a fine of \$1,500 or imprisonment for a term not exceeding six 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, that is to say—

- (a) that the security guards to whom firearms are to be assigned are authorised for that purpose;
- (b) that the authorised security guards are licenced to use firearms under the Firearms Act;
- (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 her, or by the Board, in good faith and in the exercise or purported exercise of his or her or its powers or functions, or in the discharge, or purported discharge of his or her 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 been complied with;

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

Regulations.

29. The Minister may generally make regulations to give effect to the provisions of this Act and may, in particular, make regulations providing for—

- (a) the classes of persons who are to be exempted from this Act or any provision of this Act;
- (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;
- (f) the qualifications of persons who wish to work as private investigators and security guards; and
- (g) anything that is required or necessary to be prescribed for the purposes of this Act.

Act to bind the Crown.

30. This Act binds the Crown.

SCHEDULE

(Section 3(2))

1. The Board shall be constituted as follows—
 - (a) the Permanent Secretary, National Security, *ex officio*;
 - (b) the Permanent Secretary, Ministry of Legal Affairs, *ex officio*;
 - (c) the Commissioner of Police or his or her representative, *ex officio*;
 - (d) three members appointed by the Minister, by instrument in writing, from the private sector.
 2. The three members referred to in paragraph 1(d) and the Secretary to the Board shall hold office for a period of three years and may be eligible for re-appointment.
 3. Four members of the Board shall form a quorum.
 4. All decisions of the Board shall be by majority votes and, in any case in which the voting is equal, the chairperson or person presiding at the meeting, shall, in addition to his or her original vote, have 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 shall not be 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 shall be valid and effectual as if that member was duly appointed.
 7. Subject to paragraphs 2, 3, 4, 5, and 6, the Board may regulate its own procedure.
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