Ten-day workshop on legislative drafting for democratic social change: Guyana, January 13-24 2003

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A BILL
INTITULED

AN ACT to establish the Private Security Authority to regulate the licensing and management of Private Security Services.

Short title 1. This Act may be cited as the Private Security Services Act 2003
   (a) Board means the Private Security Authority Board

Interpretation 2. (a) "Minister" means Minister of Home Affairs;
   (b) "Private Security Authority" means an organisation established under section 4.

Licensing of Private Security Service
   (i) After ninety days after this Act comes into force, a person shall not carry on the Business of a private security service without a licence granted by the Board.
   (ii) An organisation that provides a security service before the commencement of this Act shall supply to the board before the Expiry of ninety days after this Act.

Establishment and Constitution
   (i) There is hereby established a Board to be known as the Private Security Authority Board
   (ii) (a) The Board shall comprise the following -
        (b) The Chairman who shall be the Minister's representative from Finance appointed by the Minister responsible for Finance;
        (c) A representative from the Guyana Association of Private Security Organisations;
        (d) A representative from the Private Sector Commission
Function of the Board (5) (i) The functions of the Authority are to operate a licence system for providers of security services in order to maintain and improve standards.

(ii) Without prejudice to the generosity to the foregoing the functions of the Board are:

(a) To maintain a register of licenced private security services;

(b) To establish code of conduct for guards employed by private security services;

(c) To investigate and hear complaints against private security services;

(d) To assist the Minister generally for the proper functioning of this Act.

Appointment and dismissal of Members of the Board

SCHEDULE:

Application for licence

(i) A person may apply for a licence to carry on the business of providing security services to the Minister in the form set out in Form I of SCHEDULE II.

(ii) Within seven days of the filing of an application to the Board, the applicant shall deliver a copy of the application and the comments to the Commissioner of Police.
4.

(2) The Commissioner of Police, the Applicant and any other person appearing before the Minister may be represented by counsel.

(3) The hearing of the application for the grant of a licence shall commence within fourteen days from the date of the notice in subsection (1).

(4) The Minister may grant the licence to the applicant who shall be notified in writing within three months of the date in which the application was submitted to the Minister.

Revocation and Suspension of a licence

The Minister may revoke a licence granted to a private security service if the private security service -

(a) has ceased to carry on business for a period of more than over a year;

(b) any one of its Directors is guilty of one or more of the following offences.
5.

(i) an offence involving acts of dishonesty;

(ii) has wilfully and knowingly contravened or failed to comply with any of the conditions subject to which the licence was granted in respect of the following:

(i) safe keeping of firearms

(ii) employing a guard who has been convicted of the following offences:

(i) manslaughter;

(ii) larceny, embezzlement or other offence involving dishonesty;

(iii) arson
(iii) has wilfully and knowingly contravened, or failed to comply with, any of the conditions subject to which the licence was granted in respect of the following:

(1) safe keeping of fire arms
(2) wilfully and knowingly employing a guard who has been convicted on indictment of one or more of the following offences:
   (1) murder
   (2) manslaughter
   (3) larceny, embezzlement or other indictment offences pertaining to dishonesty
   (4) arson

(2) The Minister shall not revoke or suspend a licence granted to a Private Security Service pursuant to the provisions of this Act unless he has:

(a) Served Notice of the Date for hearing of the Proceedings for consideration of the revocation or suspension of the Licence.
(b) The Notice shall not be less than thirty days.
(c) The Notice shall set out clearly the grounds upon which the Minister has invoked his powers pursuant to this section.
(d) The Minister and the Applicant for a licence may be represented by their respective Counsel at the hearing.
(e) Section 5.(3)., 5.(4)., 5.(5). and 5.(6). shall apply to hearings pursuant to this section mutatis mutandis.
7. (1) An appeal shall lie to the Court of Appeal by an Applicant from the refusal by the Minister to grant a Licence to operate a Private Security Service pursuant to the provisions of this Act.

7. (2) An appeal shall lie to the Court of Appeal by the holder of a Licence granted pursuant to this Act from the decision of the Minister suspending and or revoking such Licence.

7. (3) An appeal to the Court of Appeal made pursuant to Sections 7. (1) and 7. (2) of this Act shall be filed within thirty (30) days of receiving the notification of the refusal to the grant or suspension of the Licence or to the revocation of the Licence.

7. (4) Section 78 (1) of the Public Utilities Commission Act 1990 dealing with appeals to the Court of Appeal shall apply to appeals made pursuant to sections 7. (2) and 7. (3) of this Act mutatis mutandis.

6. (1) The Schedules to this Act are integral parts thereof and shall be read accordingly.

9. (1) The Minister may make regulations for the carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), such regulations may in particular provide for all or any of the following matters of this Act:

(a) the fees to be charged;
(b) the training and discipline of guards employed by a Security Service.
(c) any other forms that may be required to put into effect the purposes of this Act.
SCHEDULE I.

FUNCTIONS AND POWERS OF SUPERNUMERARY CONSTABLES

1. Each Supernumerary Constable and each guard employed by a Security Service shall have the power and authority of members of the Police Force in respect of all offences committed in relation to any person or any property which he is employed to guard or protect, save and except that the guard is not entitled to bear arms.

2. Every guard employed by a licensed Security Service whilst engaged in the performance of his duties shall be subject to all the provisions of the Police Act and Cap. 16:01 and Regulations made thereunder relating to powers, immunities, and shall be subject to discipline and punishment, in like manner as a constable of the Police Force.

3. Every person who is -
   (a) over eighteen and under sixty years of age;
   (b) able-bodied, and
   (c) of good character,
   shall be deemed to be qualified for appointment as a guard.

4. Nothing in this section confers on any guard, any claim for a pension under the Police Act.

5. Notwithstanding the provisions of any law, a guard shall be regarded as a workman, and the security service as an employer.

6. Every guard shall be required to retire on his attaining the age of sixty-five (65) years save and
except that the Commissioner may permit a guard who is a Supernumerary Constable to continue to serve beyond the age of sixty-five (65) years.

7. A guard shall be appointed a Supernumerary Constable unless the Commissioner, upon consideration of such particulars that he may request from the Security Service in every case where a guard is to be appointed, approves the appointment.

8. (1) On appointment the appointment of any guard to be a Supernumerary Constable, the Commissioner shall deliver or cause to be delivered to him a precept authorising him to act as a constable, signed by the Commissioner, or on his behalf by any Officer not below the rank of Superintendent of Police duly authorised by him in writing.

8. (2) The precept may be in such form as the Commissioner may determine.

8. (3) On receipt of the precept, the person appointed a Supernumerary Constable shall take before an Officer of the Force not below the rank of Superintendent of Police duty authorised by the Commissioner the following Oath of office:

I.................. of ......................

do swear that I will well and truly serve the State as a guard. So help me God.

8. (4) On receiving the precept and taking the Oath, the person so appointed shall be a Supernumerary Constable under the provisions of the Police Act.

9. (1) Every guard shall be provided by the...
shall provide a short manual describing the powers and duties of a guard, a baton, which shall be evidence of the office of any guard and shall in every case be displayed by every such guard when exercising the duties of his office.

9.(ii) The cost of the articles referred to in subsection (1) shall be defrayed by the Security Service employing the guard.