

### **SUPPLEMENT No. 2**

TO

# THE SOVEREIGN BASE AREAS GAZETTE No. 1611 of 4th March 2011

## LEGISLATION

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#### PRIVATE SECURITY INDUSTRY ORDINANCE 2011

An Ordinance to make provision for the regulation of the private security industry.

G. E. STACEY ADMINISTRATOR 1st March 2011.

**BE** it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

#### Part 1

#### **Preliminary**

#### 1. Short title

This Ordinance may be cited as the Private Security Industry Ordinance 2011.

#### 2. Interpretation

In this Ordinance-

- "Chief Constable" has the same meaning as in the Police Ordinance 2007(a);
- "corresponding Republican Law" means the Private Offices Providing Security Services Law 2007(b) of the Republic, any amendments or re-enactments to that Law and any public instruments made under it;
- "manager" means the manager of a private security undertaking;
- "Fire Service" means the Defence Fire Risk Management Organisation or its successor;
- "police officer" has the same meaning as in the Police Ordinance 2007, except when the context indicates a reference to a police officer in the Republic of Cyprus Police;
- "Police Service" means the Sovereign Base Areas Police Service;
- "private investigation services" means the activities referred to in section 3(3);
- "private security undertaking" means an undertaking which provides security services

- and which has a licence issued under section 7 or under Part IV of the corresponding Republican Law;
- "rehabilitated person" means a rehabilitated person for the purposes of the Rehabilitation of Offenders Ordinance 2009(c);
- "security operative" means a person who has a licence to provide security services issued under Part III of the corresponding Republican Law and the expression includes a person who acts as a security technician; and
- "security technician" means a person who repairs, installs or services security equipment.

#### 3. Meaning of security services and private investigation services

- (1) Subject to subsection (2), "security services" means—
  - (a) keeping movable or immovable property or facilities under guard, protection or surveillance;
  - (b) protecting persons;
  - (c) providing security for sporting or other events, exhibitions, conferences or competitions;
  - (d) transporting and storing money or other valuable objects;
  - (e) providing armoured vehicles for transporting money or other valuable objects;
  - (f) installing, maintaining or monitoring—
    - (i) security systems;
    - (ii) fire detection and extinguishing systems;
    - (iii) access control systems;
    - (iv) anti-theft and merchandise protection systems;
    - (v) closed circuit television systems;
  - (g) establishing and operating centres which send and receive alarm signals relating to the systems referred to in paragraph (f);
  - (h) designing electronic and physical security systems;
  - (i) controlling or regulating movement of the public on private property or in areas with restricted public access for the purpose of protecting that property;
  - (j) private investigations services;
  - (k) providing facilities for the safe storage of property.
- (2) The activities listed in subsection (1) are not security services if—
  - (a) they are activities of a person who, incidentally to the carrying out of activities which are not the primary activities of a security operative, responds to a sudden or unexpected occurrence; or
  - (b) they are the activities referred to in subsection (1) (d), (i) or (k) and are not the primary activity of that person or undertaking but are incidental to some other activity.
- (3) In this Ordinance, "private investigation services" means obtaining information on behalf of another person relating to—
  - (a) the identity or location of a person;
  - (b) the home or work address of a person or information about that person's professional or business activity;
  - (c) searches for missing persons;
  - (d) damage to or loss of a property right or interest;
  - (e) prevention and detection of industrial or commercial espionage.
- (4) The Administrator may amend subsection (1) by order published in the Gazette.

#### Part 2

#### **Security Industry Professionals**

#### 4. Restrictions on providing security services

- (1) A person must not provide security services unless that person—
  - (a) is a security operative; and
  - (b) subject to subsection (2), is employed by a private security undertaking.
- (2) A security operative may provide the security services referred to in section 3(1)(a), (b), (d) or (i) other than as an employee of a private security undertaking.
- (3) A person other than a private security undertaking may only employ a security operative to provide the security services referred to in section 3(1)(a), (b), (d) or (i).
- (4) A person must not provide private investigation services unless that person has a licence issued under section 20 of the corresponding Republican Law.
- (5) A person who breaches subsection (1), (3) or (4) commits an offence.

#### 5. Certain persons prohibited from being employed by a private security undertaking

- (1) A person must not act as security operative if that person has been convicted of a criminal offence specified in subsection (2) in any jurisdiction (however those offences are described) unless that person is a rehabilitated person.
- (2) The offences specified in this subsection are—
  - (a) homicide;
  - (b) rape;
  - (c) incest;
  - (d) kidnapping;
  - (e) arson;
  - (f) robbery;
  - (g) burglary;
  - (h) unlawful destruction of or damage to property;
  - (i) assault causing actual bodily harm;
  - (i) causing grievous harm;
  - (k) membership of an unlawful association contrary to section 56 of the Criminal Code;
  - (l) premeditated murder or attempted murder;
  - (m) the import, possession manufacture storage or transport of explosive substances contrary to section 4(4) of the Explosive Substances Ordinance(d);
  - (n) destruction of property with explosive substances;
  - (o) unlawfully importing, acquiring, possessing or using a firearm in categories A, B or C;
  - (p) any offence under the Human Trafficking and Exploitation Ordinance 2009(e);
  - (q) any offence under section 3 or 7 of the Betting Houses, Gaming Houses and Gambling Prevention (Consolidation) Ordinance 1985(f);
  - (r) failing to prohibit minors from entering a bookmaking premises contrary to section 6(c) of the Pool Betting (Regulation and Duty) Ordinance 2005(g);
  - (s) unlawfully possessing, using or possessing with the intention of providing controlled medicines or psychotropic substances contrary to the Narcotic Drugs and Psychotropic Substances (Consolidation) Ordinance 2006(h);
  - (t) any other offence specified in an order made by the Administrator and published in the Gazette.

- (3) A person must not act as a security operative if that person—
  - (a) has been dismissed from any public office for a disciplinary matter involving dishonesty; or
  - (b) is a user of narcotic drugs or psycotropic substances (except if those drugs have been prescribed by a medical practitioner).
- (4) A person must not act as a security operative if that person manufactures, or trades in firearms or explosives.
- (5) A person who breaches this section commits an offence.

#### 6. Power of Chief Constable to prohibit or restrict provision of security services

- (1) The Chief Constable may direct that a person who holds a licence issued under Part III of the corresponding Republican Law—
  - (a) may not provide security services;
  - (b) may only provide security services subject to such conditions as the Chief Constable may impose.
- (2) A person to whom the Chief Constable has given a direction under subsection (1) must comply with that direction.
- (3) A person to whom the Chief Constable has given a direction under subsection (1) may appeal against that direction to the Administrator.
- (4) A person who breaches subsection (2) commits an offence.

#### Part 3

#### Private security undertakings

#### 7. Establishment of a private security undertaking

- (1) An undertaking may not provide security services unless that undertaking—
  - (a) holds a licence issued under this section; or
  - (b) has a business address in the Republic and—
    - (i) holds a licence issued under Part IV of the corresponding Republican Law permitting it to provide the security services in question; and
    - (ii) in the case of an undertaking providing private investigation services, holds a licence under section 20 of the corresponding Republican Law.
- (2) An undertaking (the "applicant") who wishes to obtain a licence under this section is to—
  - (a) make an application on a form prescribed by the Chief Constable;
  - (b) provide the information specified in subsection (3);
  - (c) provide such evidence as in support of the application as the Chief Constable may require; and
  - (d) pay the prescribed fee.
- (3) The specified information is—
  - (a) the full names of the applicant;
  - (b) the identity card or passport numbers, addresses, academic qualifications and employment history of the applicant;
  - (c) in the case of an application from a partnership the information specified in paragraphs (a) and (b) in relation to each of the partners;
  - (d) in the case of an application from a company, information specified in paragraphs (a) and (b) in relation to each of the directors, the secretary and shareholders;
  - (e) the full name of the manager of the undertaking and the information specified in paragraph (b) in relation to the manager;

- (f) the name and business address of the undertaking;
- (g) a description of the security services to be provided by the undertaking;
- (h) a list of the full names of the persons employed by that undertaking and the capacities in which they are employed;
- (i) a statement by the applicant that the undertaking will not provide security services to a business undertaking in which the applicant or a partner, director, secretary shareholder or manager of the applicant has an interest;
- (j) such other information as the Chief Constable may require.
- (4) On receipt of an application under subsection (2) the Chief Constable may issue a licence permitting the applicant to provide security services of the kind specified in the licence.
- (5) A licence may not be issued under this section if the applicant or a partner, director, secretary or manager of the applicant is prohibited from being a security operative under section 5
- (6) A licence issued under this section may be subject to such conditions as the Chief Constable may specify.
- (7) A licence issued under this section is valid for 12 months from the date it is issued.
- (8) The Chief Constable may amend or revoke a licence issued under this section—
  - (a) if the conditions on which it was issued cease to be met;
  - (b) if the proprietor or a partner, director secretary or manager of the private security undertaking become prohibited from being a security operative under section 5; or
  - (c) if it is in the public interest to do so.
- (9) In this section, the "prescribed fee" means the same fee that is payable for an application under Part IV of the corresponding Republican Law.
- (10) Nothing in this section affects the operation of the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960(i).
- (11) An undertaking which breaches subsection (1) or which fails to comply with the conditions of a licence issued under subsection (4) commits an offence.

#### 8. Power of Chief Constable to prohibit or restrict private security undertaking

- (1) Notwithstanding that a private security undertaking may have a licence issued under Part IV of the corresponding Republican Law, the Chief Constable may direct that the undertaking—
  - (a) may not act as a private security undertaking within the Areas; or
  - (b) may only act as a private security undertaking within the Areas subject to such conditions as the Chief Constable may impose.
- (2) A private security undertaking to whom the Chief Constable has given a direction under subsection (1) must comply with that direction.
- (3) A private security undertaking to whom the Chief Constable has given a direction under subsection (1) may appeal against that direction to the Administrator.
- (4) A private security undertaking which fails to comply with subsection (2) commits an offence.

#### 9. Officers and employees of private security undertakings

- (1) A private security undertaking must not employ a person—
  - (a) to provide security services unless that person is a security operative licensed to provide the security services in question;
  - (b) in any capacity if that person is prohibited from being a security operative under section 5.
- (2) A private security undertaking to which a licence has been issued under section 7 must annually submit a list of persons employed by that undertaking to the Chief Constable.

- (3) The list referred to in subsection (2) must be submitted within 1 month of the anniversary date on which the licence was issued under section 7.
- (4) A private security undertaking to which a licence has been issued under section 7 must notify the Chief Constable within 5 working days of any change to the persons employed by the undertaking.
- (5) A private security undertaking to which a licence has been issued under section 7 must notify the Chief Constable of any proposed change of partners, directors, secretary or shareholders and may not make such a change without the consent of the Chief Constable.
- (6) The Chief Constable is to inform a private security undertaking whether the Chief Constable consents to a change of partners, directors, secretary or shareholders within 15 days of being requested to do so.
- (7) A private security undertaking which fails to comply with subsections (1) to (5) commits an offence.

#### Part

#### Private security industry register

#### 10. Register

The Chief Constable is to maintain a register in which is recorded—

- (a) the name of any person in respect of whom a direction has been issued under section 6, together with the details of any conditions imposed by the Chief Constable on the provision of security services by that person;
- (b) the name of each private security undertaking to whom a licence has been issued under section 7;
- (c) the name of each private security undertaking in respect of which a direction has been issued under section 8, together with the details of any conditions imposed by the Chief Constable on the provision of security services by that undertaking.
- (2) The register may also contain any other particulars which the Chief Constable considers ought to be recorded.
- (3) The Chief Constable may provide any interested party with such extracts from the register as the Chief Constable considers appropriate.

#### Part 5

#### Provisions applying to the private security industry

#### 11. Identification documents and uniform

- (1) A security operative must, while carrying out his or her duties, carry the identity card issued under section 14 of the corresponding Republican Law.
- (2) A private security operative employed by a private security undertaking must carry an identity card issued by that undertaking.
- (3) A security operative must, when carrying out the duties referred to in section 3(a), (c), (d), (e) or (i) wear a uniform approved—
  - (a) by the Chief Constable; or
  - (b) under section 15 of the corresponding Republican Law.
- (4) The uniform referred to in subsection (3) must be of a type which cannot be confused with a uniform worn by any of Her Majesty's forces, by the Police Service or by the Republic of Cyprus Police.
- (5) A security operative must not use any title or style which may lead a person to believe that the security operative is a police officer or a police officer in the Republic of Cyprus Police.

(6) A security operative who fails to comply with subsections (1), (2), (3) or (5) commits an offence.

#### 12. Supervision by the police

- (1) The Chief Constable may require a security undertaking to provide such information as may be specified from time to time, including—
  - (a) audited accounts; and
  - (b) a description of the activities of the undertaking in the previous 12 months.
- (2) A private security undertaking commits an offence if it—
  - (a) fails to provide the information required in accordance with subsection (1); or
  - (b) provides information which the manager knows to be false or is reckless as to whether or not the information is false.

#### 13. Duties of security undertakings and security operatives

- (1) A private security undertaking must—
  - (a) include the phrase "private security service" and its licence number in printed material issued by it;
  - (b) ensure that its name, title, documents and advertisements could not be confused with names, titles, documents and advertisements used or published by Her Majesty's Forces, the Police Service or the Republic of Cyprus Police;
  - (c) if providing services of the type referred to in referred to in section 3(a), (c), (d), (e), (f), (g) or (i), maintain a premises which is continually staffed while those services are provided and with which the police may communicate in an emergency;
  - (d) deliver to the police any recorded material from any closed circuit television system which the police may request.
- (2) A private security undertaking must ensure that vehicles operated by it—
  - (a) do not bear signs, colours or symbols which could be confused with those of vehicles used by Her Majesty's Forces, the Police Service or the Republic of Cyprus Police;
  - (b) are not fitted with flashing lights or sirens which could be confused with those fitted to vehicles operated by the Police Service, the Republic of Cyprus Police, an ambulance or the Fire Service.
- (3) A private security undertaking must ensure that any vehicles used by it for transporting money or other valuable objects is armoured against attacks using firearms.
- (4) A private security undertaking must issue a bullet proof vest and a protective helmet to any security operative employed by it in the transport of money or other valuable objects.
- (5) A private security undertaking may only use a dog to guard property if—
  - (a) the dog is accompanied by a handler who is capable of controlling the dog; or
  - (b) the dog—
    - (i) is used to protect the interior of a building or a secluded place; and
    - (ii) a appropriate warning signs are displayed in conspicuous places in the vicinity of the building or place.
- (6) A private security undertaking which fails to comply with subsection (2), (3), (4) or (5) commits an offence.

#### 14. Alarms connected to police stations

The Chief Constable may permit a person to connect an alarm system to a police station, subject to such terms and conditions (including charges) as the Chief Constable may specify.

#### Part 6

#### **Miscellaneous Provisions**

#### 15. Power of police officer to require production of licence and other documents

- (1) The holder of any licence or document referred to in this Ordinance must, at the request of a police officer, produce that licence or document.
- (2) A person must not obstruct a police officer acting in accordance with this section.
- (3) A person who contravenes subsection (1) or (2) commits an offence.

#### 16. Criminal Offences

A person who commits a criminal offence under this Ordinance is liable to imprisonment for 2 years or a fine of  $\in 30,000$  or both.

#### 17. Offences by bodies corporate

If an offence under this Ordinance, committed by a body corporate, is committed with the consent or the connivance of, or is attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, that officer as well as the body corporate commits that offence and is liable to the same penalties as provided for by this Ordinance.

#### 18. Regulations

- (1) The Administrator may make regulations for carrying the provisions of this Ordinance into effect.
- (2) Without prejudicing the generality of subsection (1), regulations made under this section may—
  - (a) specify the type of licence issued under this Ordinance; and
  - (b) may specify the duties and responsibilities of a private investigation service.

#### 19. Legal proceedings

- (1) A court may take judicial notice of Republican law and of any other Republican document of any description granted or otherwise made under Republican law.
- (2) The production of a copy of any part of a Republican enactment—
  - (a) contained in a printed collection of enactments purporting to be printed and published by an authority of the Republic; or
  - (b) contained in an issue of the Official Gazette of the Republic; or
  - (c) purporting to be printed by the Government Printer of the Republic, by whatever name called;

is evidence for all purposes, and may be held by a Court to be conclusive evidence, of the due and lawful making of that enactment.

- (3) For the purposes of this section, a version of any part of a Republican enactment in the English language—
  - (a) purporting to be produced by an authority of the Republic;
  - (b) certified as being accurate by an officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the Republican enactment was published in the Republic;
  - (c) given or produced in the course of oral evidence of a person whom the Court considers to be a competent translator for the purpose;
  - (d) stated orally in court or produced in writing by a Registrar or official court interpreter;

may in any of those cases be held by the Court to be conclusive evidence for all purposes that such version is the accurate English version of the Republican enactment or part of the Republican enactment in question.

- For the purposes of this section, the production of— (4)
  - a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant enactment under which the relevant document was made; or
  - (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence;

may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

#### 20. **Savings**

Nothing in this Ordinance affects the operation of—

- the Civil Wrongs Ordinance(j);
- (b) the Dogs Ordinance 2006(k); or
- the Firearms and Other Weapons Ordinance 2009(1).

#### 21. **Application to the Crown**

- (1) This Ordinance does not bind the Crown or a person employed by or in the service of the Crown while discharging his or her duties except insofar as its provisions expressly impose duties or confer powers on the Chief Constable or on a police officer.
- For the purpose of this section "the Crown" means Her Majesty in right of Her Government (2) of the United Kingdom and in right of Her Administration in the Areas.

#### 22. Commencement

This Ordinance comes into force on 1 May 2011.

#### Notes

<sup>(</sup>a) 6/2007.
(b) Law 125(I)/2007 (Republic of Cyprus).
(c) Ordinance 11/2009.

<sup>(</sup>d) Cap 54 Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).

Ordinance 25/2009.

<sup>(</sup>f) Ordinance 10/1985

Ordinance 11/2005 (g) Ordinance 11/2005. (h) Ordinance 16/2006.

Ordinance 5/1960.

Cap 148 Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).

Ordinance 9/2006. Ordinance 21/2009.

#### **EXPLANATORY NOTE**

#### (This note does not form part of the Ordinance)

#### Introduction

- 1. This explanatory note relate to the Private Security Industry Ordinance 2011 (the "Ordinance"). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.
- 2. The note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

#### Particular points

- 3. The Ordinance replicates the effects of the Republican Private Offices Providing Security Services Law 2007 (the "Corresponding Republican Law") (Law 125(I)2007, Republic of Cyprus). A table showing the provisions in the corresponding Republican Law and the equivalent provisions in the Ordinance appears at the end of this Explanatory note.
- 4. Section 4 of the Ordinance provides that a person must not provide security services unless that person holds a licence issued under Part III of the corresponding Republican Law. The meaning of "security services" is set out in section 3. Subject to certain exceptions, a person may only provide security services if employed by a private security undertaking. The exceptions permit a business to employ a security operative directly without having to contract with a private security undertaking and permit an individual to hire a security operative for close protection.
- 5. Section 5 prohibits certain persons from being a security operative. In general, the prohibition applies to persons who have been convicted of the offences listed in section 5(2).
- 6. Section 6 permits the Chief Constable to direct that a person is not to act as a security operative within the Areas even if that person has a licence to do so issued under the corresponding Republican Law. If the Chief Constable makes such a direction the person in respect of whom the direction is made may appeal to the Administrator.
- 7. Part 3 deals with private security undertakings. A private security undertaking may operate within the SBAs if it is licensed under section 7 or if it has a place of business in the Republic and it is licensed under the corresponding Republican Law. Section 7 prescribes the application process. Licences issued under section 7 are valid for 12 months.
- 8. Section 8 permits the Chief Constable to prohibit a private security undertaking licensed in the Republic from operating within the areas or to impose conditions on that undertaking. Section 9 requires the private security undertaking to employ security operatives only if those operatives hold a licence issued under the corresponding Republican Law. Other employees of the undertaking must not be prohibited by section 5 from being security operatives.
- 9. Part 5 prescribes various provisions applying to the private security industry. Section 11 provides that a security operative must wear a distinctive uniform approved by the Chief Constable when carrying out certain types of duty.
- 10. Section 12 gives the Chief Constable the power to require a security undertaking to provide information which the Chief Constable may specify from time to time. This information includes audited accounts and a description of the activities of the undertaking.
- 11. Section 13 makes provision to ensure that a private security undertaking cannot be confused with an official organisation. It also requires the private security undertaking to use certain equipment for particular types of work and imposes constraints on the use of guard dogs.
- 12. Section 14 gives the Chief Constable to power to permit a person to connect an alarm to a police station, subject to such terms and conditions as the Chief Constable may impose.
- 13. Offences under the Ordinance are punishable with up to 2 years imprisonment or a maximum fine of  $\in 30,000$  or both.
- 14. The Ordinance does not confer any special powers on a security operative or a private security undertaking. For example, a security operative has no powers of arrest beyond those of the ordinary citizen. Similarly, a security undertaking would remain liable under the Civil Wrongs Ordinance for any damage caused by it (for example as a result of keeping a dangerous animal).

## Table of equivalent provisions

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(SBA/AG/2/CR/496)

