

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE AND PARLTAMENTARY AFFAIRS DEPARTMENT,
MUZAFFARABAD

Dated 30th December, 2004

No.LD/Legis/329-336/2004.The following Act of the Assembly received the assent of the President on 23rd day of December, 2004, is hereby published for general information:-

(ACT VIII OF 2004)

AN

ACT

to provide for regulation, licensing and control of Private Security Companies in Azad Jammu & Kashmir

WHEAREAS it is expedient to provide for regulation, licensing and control of Private Security Companies in AJ&K and for the matter connected there with and ancillary thereto;

It is hereby enacted as follows:-

1. Short title, extension and commencement:-(1) This Act may be called the Azad Jammu & Kashmir Private Security Companies (Regulation and Control) Act, 2004.

(2) It extends to the whole of Azad Jammu & Kashmir.

(3) It shall come into force at once.

2. Definitions:-In this Act, unless there is anything repugnant in the subject or context:-

a) "Company" means a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984);
b) "Government" means the Azad Government of the

State of Jammu & Kashmir;

c) "License" means a license granted under this Act for carrying on the business of a Private Security Company by providing for consideration security guards or security arrangements for protection of person or property or to prevent theft or unlawful taking of

property;

d) "Licensee" means the holder of a license;

e) "Licensing Authority" means the Azad Government of

the State of Jammu and Kashmir or an officer nominated by the Government to exercise all or any of the powers of the Licensing Authority;

f) "Prescribed" means prescribed by rules made under this Act.

g) "Private Security Company" means any company

incorporated under the Companies Ordinance, 1984 (XLVII of 1984), carrying on, maintaining or engaged in the business of providing for consideration, security guards or making other arrangements for the security of other persons and their property and cash in transit functioning under a valid license issued by the Licensing Authority; and

h) "Security Guard" includes any watchman or other person engaged by the licensee for the protection of persons or property or to prevent theft or robbery at the protected places and who possesses required training as prescribed by the Licensing Authority under the rules.

Act not apply to Civil and Armed Forces, etc.- The provisions of this Act shall not apply to,-

a) any member of armed forces, police or any civil armed forces; and

b) any inspector, guard, watchman or other persons employed by an individual employer for inspection, protection, guarding of his residence, commercial or business premises or for the protection of persons or property of such employer who is not engaged in the business of Private Security Company .

Private Security Company's employees not to wear certain uniform.- The persons employed by the private security company shall not wear uniform akin to uniform of armed forces, police or any civil armed forces and shall wear the uniform as may be prescribed by the Licensing Authority;

Provided that no other private security guard employed by private organizations or individual employer shall wear the uniform prescribed for security guards of registered private security companies.

Prohibition of maintenance of a company without a license.- No person shall carry on the business of a private security company or maintain or provide security guard or security arrangements for consideration unless he holds a license for the purpose issued under this Act.

Procedure for grant and renewal of license, etc.- (1) Whoever desires to engage or to assist in the business of maintaining a

private Security company shall make an application for grant of a license to the Licensing Authority and shall with his application furnish such information attach document and pay such fee in the form and manner as may be prescribed.

(2) On receipt of an application under subsection (1), the Licensing Authority may, after such verification and enquiry as it may deem necessary and subject to such conditions, including furnishing of security, as may be prescribed, grant or refuse to grant the license.

(3) A license issued under subsection (2) shall be non transferable, valid for a period of three years and shall be renewable on an application made in the form and on payment of such fee as may be prescribed.

(4) A licensee shall furnish annual performance report before the Licensing Authority on such form and within such period as may be prescribed.

(5) The Licensing Authority, shall, through a notification in the Official Gazette, prescribe the fee payable for issuance of license or renewal thereof.

(6) A license shall not be granted if,-

a) Satisfactory evidence has not been produced of the good moral character of partners and officers of the company holding managerial or executive positions; or

b) satisfactory evidence has not been produced to show that the applicant is a fit and proper person to hold a license; or

c) the applicant has been convicted of any offence

involving fraud or moral turpitude or if the applicant is a company, any of its officers holding a managerial or an executive position or, as the case may be, any of its partners has been convicted of any offence involving fraud or moral turpitude; or

d) it is not in the public interest to do so; or

e) the private security company is not registered under the Companies Ordinance, 1984; or

f) the private security company has not obtained a No Objection Certificate from the Home Department, Government of Azad Jammu and Kashmir:

Provided that reasons for refusal to grant a

license shall be recorded in writing and be communicated to the applicant

(7) The Licensing Authority may, at any time, vary or revoke of the conditions of a License or impose any additional conditions thereto.

(8) The Licensing Authority shall, before taking any action under subsection (7), notify to the license its intention of the proposed action and provide him an opportunity to show cause against such action.

Registration of existing Companies.- (1) A company already functioning under a No Objection Certificate granted by the

Government shall not continue for more than three months from the commencement of this Act, unless an application for license has been made within thirty days of such commencement.

(2) where an application, as aforesaid, has been made in respect of an existing company and such application is rejected then notwithstanding the period of three months provided in subsection (1), the company may be continued for a period of thirty days from the date on which the application is rejected or if an appeal is preferred, until such appeal is dismissed.

Appeal.- Any person aggrieved by an order of the Licensing Authority made under Section 7 may, within thirty days, prefer an appeal against such order to the officer notified in this behalf by the Government whose decision thereon shall be final.

Exhibition of License.- Every licensee shall exhibit his license or a certified copy thereof at a conspicuous place at his principal place of business and at every branch where the licensee carries on the business of private security company.

Penalties.-

Any person.-

(a) Contravenes any of the provisions of this Act or any rules made there under; or

(b) Carries on the business of private security company without a license; or

(c) Fails to comply with the conditions of the license; or

(d) Fails to exhibit the license or certified copy thereof at a conspicuous place in the office or place of business of the Private security company; or

(e) Not being the holder of a license keeps, uses or exhibits

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any sign, writing painting or other mark implying that he holds a license to carry on the business of a private security company; or

Being a licensee or an applicant for grant of a license knowingly makes a false or incorrect statement or omits to furnish any particular which he is required to furnish; or

Being a licensee violates the relevant provisions of the Companies Ordinance, 1984 (XLVII of 1984),

Shall be punishable with imprisonment for a term which may extend to three years or with fine, which may extend from twenty thousand rupees to two hundred thousand rupees, or with both, and in case of default of payment of fine, the offender shall be liable to imprisonment which may extend to one year.

Revocation of a License.- (1) The Licensing Authority may, by an order in writing revoke a License,-

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If it is satisfied that the licensee,-

i) has ceased to carry on the business for which he has obtained the license or a licensee being a company, has applied for liquidation, winding up of the company or the company has been dissolved; or

ii) has obtained the license by providing false information in contravention of the provisions of this Act;

iii) is no longer a fit and proper person to continue

to hold a license; or

iv) has been convicted of any offence involving fraud or moral turpitude or any of the officers of the licensee holding a managerial or executive position, partner, employee or security guards has been convicted of any offence involving

fraud or moral turpitude; or

v) is contravening or has contravened any of the provisions of this Act or the rules made thereunder; or

if it is found that the security guards employed by the company do not possess the prescribed qualifications or training; or

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c) if the company fails to provide services to its clients as per agreement signed by it or as per the prescribed procedure; or

d) if it is considered necessary to do so in the public interest.

(2) The Licensing Authority shall before revoking any license under sub-section (1) give the licensee a notice to show cause in writing specifying a date, not less than thirty days from the date of the notice, on which the revocation shall take effect unless the licensee satisfies the Licensing Authority that the license was not liable to be revoked.

(3) When the Licensing Authority revokes a license under subsection (1) it shall forthwith inform the licensee by notice in writing of such revocation specifying date thereof and the Registrar of Companies concerned.

(4) The person whose license has been revoked may, within thirty days of the receipt of the notice referred to in subsection (3), prefer an appeal to the Government whose decision thereon shall be final.

Effect of revocation of license, etc.-(1) Where an order of revocation becomes effective under section 11, the licensee shall cease to carry on the business of a private security company.

(2) Notwithstanding the revocation of license, the enforcement of right or claim of any person against the licensee or by the licensee of any right or claim against any person arising out of, or concerning any matter or thing done prior to the revocation of the license, shall not be affected.

Employment of staff_by licensee, etc.-(1) The licensee may, in the conduct of his business, employ as many persons as he may consider necessary to be security guards and members of staff and shall at all times during such employment be responsible for the good conduct of each and every person employed by him:

Provided that no person except the state subject of Azad Jammu & Kashmir shall be employed as security guard by the licensee.

(2) The licensee shall not employ as a security guard any person who-

a) has been convicted of any offence involving fraud or

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moral turpitude or dismissed from the Government Service on charges of misconduct; or

b) is in the opinion of the Licensing Authority, not a fit and proper person to be employed as security guard.

3) Notwithstanding anything contained in subsection (1), no person shall be employed by a licensee as a security guard until he has submitted to the Licensing Authority a statement containing complete particulars and other information of such person on the prescribed form and the Licensing Authority has conveyed its no objection in writing to the recruitment of such security guard by the licensee.

4) Every licensee shall maintain a list of all the persons employed by him with their full particulars and antecedents at the place of his business.

5) Every licensee shall before deploying the security guard, get the security guard registered at the local police station of the area of his deployment

(6) Every licensee shall make arrangements for insurance of every security guard employed by him, with a registered insurance company, in respect of serious injury sustained amounting to disability or death of security guard in the discharge of his duties.

Training of security guards .-The private security company shall make arrangements for training and refresher courses of guards employed by it through Elite Police Force Training School, Lahore or any other institution prescribed by the Licensing Authority.

Possession _by Licensee_of arms, ammunition, etc.- (1) A licensee may possess and keep arms, ammunition and other

equipment which may be necessary for performance of functions of the private security company in accordance with the law and rules made thereunder for possessing and keeping of arms and ammunition, and shall use and retain such number of arms, quantity of ammunition and type of equipment in such manner as may be prescribed.

(2) A license to retain arms, ammunition and other equipment may be issued by the Government or the authority concerned on the directions of the Government.

(3) No cash, etc shall be transported except through special

transporting vehicles approved by the Licensing Authority.

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(4) No radio or wireless communication equipment or any other gadget shall be procured or used except with proper license.

(5) All security companies using radio or wireless communication system shall submit their communication plans quarterly on the prescribed proforma to the Licensing Authority. Any change or addition thereto shall be intimated immediately.

(6) The list of all other security gadgets or equipment shall be submitted quarterly on the prescribed proforma to the Licensing Authority.

Identification Papers. - (1) Every security guard shall at all times carry proper security papers and identification papers issued by the licensee in such form and containing such particulars as may be prescribed and produce such paper for inspection when so required by the Licensing Authority or any officer duly authorized by the Licensing Authority and shall surrender the identification paper to the licensee when he ceases to be such security guard with the licensee.

(2) Any person, other than a security guard, or who has ceased to be a security guard, carrying identification papers of a security guard shall, in addition to any other punishment to which he may be liable under any other law for impersonation, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Power to inspect and search. - (1) Where the Licensing Authority is satisfied upon receipt of any information or after such inquiry as it may think necessary that there is sufficient reason to believe that any premises is used for carrying on business of a private security company by a person who is not the holder of a license, it may, by warrant or writing under its hand, authorize any person named therein, or any police officer not below the rank of an Inspector, with such assistance and by such force as is necessary to enter for searching the premises and all persons found therein, to seize all documents and things reasonably supposed to have been used or intended to be used in connection with the business of a private security company which are found in such premises or in possession of such persons.

(2) The powers of inspection and search of Licensing Authority, specified in subsection (1), may also be exercised by the District Magistrate or the Superintendent of Police, either by himself in person or through a police officer authorized by him in writing:

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Provided that no female shall be searched except by a female Police Officer\Official.

(3) For the purposes of an inquiry, the Licensing Authority or any person authorized by it not below an officer of grade 16, may for furtherance of such inquiry,-

a) Enter, inspect and examine by day or by night the place of business of every licensee; and

b) require the production of records, accounts and documents kept by a licensee and to inspect, examine and obtain copies thereof.

(4) any person who,-

a) refuses the Licensing Authority or any person authorized by it to enter or search any place; or

b) assaults, obstructs, hinders or delays the Licensing Authority, or the person authorized by it, entry in execution of his duty assigned under this Act; or

c) fails to comply any lawful demand of the Licensing Authority or the authorized person in execution of his duty under this Act; or

d) refuses or neglects to give any information which may reasonably be required of him and which has in his power to give, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

Liability of Directors, Officers, etc.-Where an offence under

this Act has been committed by a person who at the time of commission of the offence was a Director, Secretary, Manager, partner or an officer of the company or who was purporting to act in any such capacity, shall unless he proves that the offence was committed without his consent or knowledge and that on learning he exercised due diligence to prevent the commission of the offence, be deemed to have abetted such offence.

Information to be passed on to the Government.- The private security company shall inform the Government about the change

as and when it occurs regarding directors, location, arms and

ammunition, employees and guards, etc.

General.- (1) The provision of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

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(2) Nothing in this Act shall be construed as conferring on a licensee or his employees any of the powers which by any law are conferred upon or exercisable by a police officer or officers of customs, immigration, prisons, or any other public officer.

Provided that all licensed private security companies including their directors, security supervisors and security guards shall have a right to defend offence affecting the human body or such property.

Delegation of powers.-The Government may, by notification in the official Gazette, delegate all or any of its powers under this Act, either generally, or in respect of such company or class of agencies as may be specified in the notification, to any of its officers.

Indemnity.-No suit, prosecution or other legal proceeding shall lie against any person for anything which is done or intended to be done in good faith under this Act.

Power to make rules.-
(1) The Government may, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of foregoing powers, such rules may provide for all or any of the following, namely:-

- a) the information and documents to be furnished by and applicant for a license;
- b) the taking and recording of photographs and finger prints of the persons applying for a license and of every person employed by a licensee;
- c) the form of a license and the identification paper of the security guards.
- d) the uniform, bag or emblem to be worn by the employees of a licensee.
- e) relating the use of any arms, ammunition and equipment by the licensee and his employees.
- f) regulating the activities of licensee and the manner in which the business of a licensee shall be conducted.
- g) training for security guard.

h) matters pertaining to the welfare of employees of private security companies.

i) compulsory insurance and compensation in case of

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serious injury amounting to disability or death of security guards in discharge of his duties; and

j)) matter incidental to the above.

Sd/-(Sardar Muhammad Anwar Khan)
President

Azad Jammu & Kashmir

Sd/-(Syed Shahid Moyiddin Qadri)
Deputy Secretary