

THE '[KHYBER PAKHTUNKHWA] PRIVATE SECURITY COMPANIES
ORDINANCE, 2002.

*[KHYBER PAKHTUNKHWA] ORDINANCE NO. XLIX OF 2002.

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THE '[KHYBER PAKHTUNKHWA] PROVINCE PRIVATE SECURITY COMPANIES ORDINANCE, 2002.

*[KHYBER PAKHTUNKHWA] ORDINANCE NO. XLIX OF 2002.

[5th November, 2002]

AN

ORDINANCE

to provide for regulation of private security companies in the 3/Khyber Pakhtunkhwaj].

WHEREAS it is expedient to provide for regulation, licensing and control of private security companies in the “[Khyber Pakhtunkhwa] and for matters connected therewith and ancillary thereto;

AND WHEREAS the Governor of the *[Khyber Pakhtunkhwa] is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended uptodate, and the Provisional Constitution Order No. | of 1999, read with the Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the °[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

1. Short title, extent_and_commencement.---(1) This Ordinance may be called the [Khyber Pakhtunkhwa] Private Security Companies Ordinance, 2002.

(2) It extends to whole of the [Khyber Pakhtunkhwa].
(3) It shall come into force at once.

2. Definitions.---In this Ordinance, 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) “competent authority” means the Secretary to Government of the *[Khyber Pakhtunkhwa], Home and Tribal Affairs Department;

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“Government” means the Government of the '[Khyber Pakhtunkhwa];

“licence” means a licence granted under this Ordinance for carrying on the business of a private security company by providing for consideration, security guards or security arrangements for the protection of persons or property or to prevent the theft or unlawful taking of property;

“licensee” means the holder of a licence;

“Licensing Officer” means the Licensing Officer appointed by the competent authority and shall include an Assistant Licensing Officer;

“private security company” means any company, registered 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 persons and their property, functioning under a valid licence issued by the competent authority;

“prescribed” means prescribed by rules made under _ this Ordinance; and

“security guard” includes any watchman or other person engaged by the licensee for the protection of persons or property or to prevent the theft or robbery at the protected places.

3. Ordinance not to apply to civil and armed forces, etc.---The provisions of this Ordinance shall not apply to --

(a)

(b)

any member of armed forces, police or any civil armed force; and

any inspector, guard, watchman, or other persons employed by an individual employer for inspection, protection, guarding of his residence or 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;

4. Private_security companies employees not to wear certain uniform.---The

persons employed by the private security company shall wear such uniform as may be

prescribed; provided that the uniform so prescribed shall not be akin to uniform of armed forces, police or any civil armed force.

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

5. Prohibition of maintenance of a company without a licence.---No person shall carry on the business of a private security company or maintain or provide security guards or security arrangements for consideration, unless he holds a licence for the purpose issued under this Ordinance.

6. Procedure for grant and renewal of licence, etc.---(1) Whoever desires to engage in the business of maintaining a private security company shall, after he has got such

company registered under the Companies Ordinance, 1984 (XLVII of 1984), make an application for grant of a license to the Licensing Officer and shall, with his application, furnish such information, attach such documents and pay such fee in the form and manner as may be prescribed.

(2) On receipt of an application under sub-section (1), the Licensing Officer may, after such verification and enquiry as he may deem necessary, and subject to such conditions including furnishing of security as may be prescribed, grant or refuse to grant the licence.

(3) A licence issued under sub-section (2) shall be --

(i) valid for such period as may be prescribed; and

(ii) renewable on an application made in the form and on payment of such renewal fee as may be prescribed.

(2) A licence shall not be granted if —

(a) satisfactory evidence has not been produced of the good moral character of the officers of the company holding managerial or executive positions or any of its officers holding a managerial or an executive position has been convicted of an offence involving fraud or moral turpitude;

(b) it is not in the public interest to do so;

(c) security clearance is not provided as may be prescribed; or

(d) the private security company is not registered under the Companies Ordinance, 1984 (XLVII of 1984):

Provided that the reasons for refusal to grant a licence shall be recorded in writing and shall be communicated to the applicant.

(5) The Licensing Officer may at any time, under the directions of Government, vary or revoke any of the conditions of a licence or impose any additional conditions thereto.

7. Appeal.---Any person aggrieved by an order made by the Licensing Officer may, within thirty days of such order --

(a) appeal to Government, if it is not an order made under sub-section (5) of section 6; or

(b) apply for review of such order by Government, if it is an order made under sub-section (5) of section 6; and

any order made by Government on such appeal or review, as the case may be, shall be final and binding.

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

9. Penalties.---Any person who --

(a) carries on the business of private security company without a licence; or

(b) fails to comply with the conditions of the licence; or

(c) fails to exhibit the licence or certified copy thereof at a conspicuous

place in the office or place of business of the private security company; or

(d) being an applicant for grant of a licence, knowingly makes a false or incorrect statement or omits to furnish any particular which he is required to furnish; or

(e) 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 to two hundred thousand rupees, or with both, and in case of default in payment of fine, the offender shall be liable to imprisonment which may extend to one year.

10. Revocation of licence.---(1) The Licensing Officer may by an order in writing revoke a licence --

(a) if he is satisfied that the licensee-

(i) has ceased to carry on the business for which he has obtained

the licence or has applied for liquidation, winding up of the company or the company has been dissolved;

(ii) has obtained the licence by providing false information in contravention of the provision of this Ordinance; or

(iii) has been convicted of any offence involving moral turpitude or any of the officer of the licensee holding managerial or executive position, partner, employee or security guard has been convicted of any offence involving fraud or moral turpitude; or

(iv) is contravening or has contravened any of the provisions of this Ordinance or the rules made thereunder; or

(b) if it is found that the security guards employed by him do not possess the prescribed qualification or training; or

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

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

(2) The Licensing Officer shall, before revoking any licence 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 Officer that the licence was not liable to be revoked.

(3) When the Licensing Officer revokes a licence under sub-section (1), he shall forthwith inform the licensee by notice in writing of such revocation, specifying date thereof and a copy of such notice shall also be endorsed to the authority which registered the licensee as a company under the Companies Ordinance, 1984 (XLVII of 1984).

(4) The person whose licence has been revoked may, within thirty days of the receipt of the notice referred to in sub-section (3), prefer an appeal in writing against the revocation to Government whose decision thereon shall be final.

11. Effect_of revocation of licence, etc.---(1) Where an order of revocation becomes effective under section 10, the licensee shall cease to carry on business of a private security company.

(2) Notwithstanding the revocation of licence, 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 licence shall not be affected.

12. Employment of staff by the licensee.---(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 to staff and shall at all times during such employment be responsible for the good conduct of each and every person employed by him.

(2) The licensee shall not employ as a security guard or otherwise any person who has been convicted of any offence involving moral turpitude or dismissed from Government service on charges of misconduct.

(3) Notwithstanding anything contained in sub-section (1), no person shall be employed by a licensee as a security guard until he has submitted to the Licensing Officer a statement containing compete particulars and other information of such person in the prescribed form and the Licensing Officer has conveyed his 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) The licensee shall provide such list and the changes, if any, made therein to the Licensing Officer and to the Officer in charge of the nearest police station, and shall intimate any change of management to the Licensing Officer and officer in charge of nearest police station.

13. Possession of arms and ammunition by the licensee.---(1) A licensee may possess and keep arms, ammunition and other equipments which may be necessary for performance

of the functions of the private security company in accordance with the law and rules applicable for possessing and keeping of arms and ammunition and shall use and retain such arms and ammunition and equipments in such manner as may be prescribed.

(2) A licence to retain any arms ammunition and other equipments may be issued by Government on the recommendation of the concerned District Administration.

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

(2) Any person other than 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 month and fine which may extend to thirty thousand rupees.

15. Power to inspect and search.---(1) The Licensing Officer or the Superintendent of Police may, either by himself or thorough an officer authorised by him in writing, inspect and search the main office, zonal or local office of the licensee, and may also check the

employees of licensee; provided that such inspection, search or checking shall be conducted at least once in every three months.

(2) Where the Licensing Officer is satisfied upon receipt of any information or after such enquiry as he 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 licence, he may by warrant or writing under his 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 on such persons.

(3) The powers of inspection and search of Licensing Officer under this section and sub-section (1) of section 14 may also be exercised by the Superintendent of Police of the concerned District either by himself in person or through a Police Officer authorized by him in writing:

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

(4) The Superintendent of Police of the District concerned shall, without delay, inform the Licensing Officer of the result of the inspection and search carried out under this Ordinance.

(5) For the purpose of any enquiry, the Licensing Officer or any person authorized by him not below an officer of BPS-16 may, for furtherance of such enquiry-

(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.

(6) Any person who-

(a) refuses the Licensing Officer or any person authorized by him to enter or search any place;

(b) assaults, obstructs, hinders or delays his entry or the entry of the person authorized by him, in execution of his duty under this Ordinance; or

(c) fails to comply with any lawful demand of the Licensing Officer or the authorized person in execution of his duty;

(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 which may extend to two hundred thousand rupees, or with both.

16. Liability of directors, officers, etc.---Where an offence under this Ordinance has been committed by the company or any person who at the time of the commission of the offence was 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.

17. Cognisance_of_offences.---Notwithstanding anything in the Code of Criminal Procedure, 1898 (Act V of 1898),-

(a) an offence punishable under this Ordinance shall be triable by a Magistrate of the first class; and

(b) it shall be lawful for any Magistrate of the first class to pass any sentence authorized by this Ordinances.

18. Power_to_make rules.---(1) Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

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

(a) the information and documents to be furnished by an applicant for a licence;

(b) the taking and recording of photographs and fingerprints of the persons applying for a licence and of every person employed by a

licensee;

(c) the form of a licence and the identification papers to be issued to the security guards;

(d) the uniform, badge or emblem to be worn by the employees of a

licensee;

(e) the use of any arms, ammunition and equipment by a licensee and his employees;

(f) activities of a licensee and the manner in which the business of a

licensee shall be conducted;

(g) qualifications and training for security guards and other employees;
and

(h) matters incidental and ancillary thereto.

19. Ordinance not to derogate from other laws.---The provisions of this Ordinance

shall be in addition to, and not in derogation of, any other law for the time being in force.

20. Licensee or their employees not to exercise powers exercisable by a certain

Government functionaries.---Nothing in the Ordinance shall be construed as conferring on a licensee or his employee any of the powers which by any law are conferred on or exercisable by a police officer or officers of customs, immigration, prisons or any other public officer.

21. Private security company not to be private military organization.---The private security company shall not be construed as private military organization for the purposes of Private Military Organization (Abolition and Prohibition) Act, 1974 (IV of 1974).

Peshawar, Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH
dated the Governor of the '[Khyber Pakhtunkhwa]
01st November, 2002.

'Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011