

## CHAPTER 27:10

# PRIVATE INVESTIGATORS AND SECURITY GUARDS (CONTROL) ACT

*Acts 23/1977, 37/1977 (s. 30), 8/1988 (s. 164), 22/2001 (s. 4).*

### ARRANGEMENT OF SECTIONS

#### PART I

##### PRELIMINARY

###### *Section*

1. Short title.
2. Interpretation.
3. Meaning of “private investigator”.
4. Meaning of “security guard”.
5. Appointment of Controller of Private Investigators and Security Guards.

#### PART II

##### PRIVATE INVESTIGATORS

6. Private investigators to be licensed.
7. Application for, and issue or renewal of, private investigators licences.
8. Licensed private investigators to show certain information on publications, documents and letters.
9. Licensed private investigators to open and keep trust accounts.
10. Licensed private investigators to render accounts to clients.
11. Duration and cancellation of private investigators licences.

#### PART III

##### SECURITY GUARDS

12. Security guards to be licensed.
13. Application for, and issue or renewal of, security guards licences.
14. Persons not to act as directors or partners of certain licensed security guards without approval of Controller.
15. Duration and cancellation of security guards licence.

#### PART IV

##### RESPONSIBLE EMPLOYEES OF PRIVATE INVESTIGATORS

16. Responsible employees of private investigators to hold certificates of approval.
17. Application for, and issue or renewal of, certificates of approval.
18. Temporary permission to engage responsible employees.
19. Changes of employment by holders of certificates of approval to be notified.
20. Duration and cancellation or suspension of certificates of approval.

#### PART V

##### GENERAL

21. Statements by Controller.
22. Appeals from decisions of Controller.
23. Duties of holders of licences and others.
24. Restrictions on activities of holders of licences and certificates of approval.
25. Holders of licences and others to report certain offences to police.
26. Regulations.
27. Criminal responsibility of holders of licences for certain offences by agents or employees.
28. Licences and certificates of approval not to confer powers on holders thereof.
29. [Repealed].

#### SCHEDULE

Matters in respect of which Minister may make regulations.

**AN ACT to provide for the appointment of a Controller of Private Investigators and Security Guards; for the licensing and certain duties of private investigators and security guards; for the approval and certain duties of, and temporary permission to engage, certain employees of private investigators; and for matters connected therewith or incidental thereto.**

[Date of commencement: 1st May, 1978.]

PART I

PRELIMINARY

**1 Short title**

This Act may be cited as the Private Investigators and Security Guards (Control) Act [*Chapter 27:10*].

**2 Interpretation**

(1) In this Act—

“assessor” means a person employed by an insurer or insured to determine any loss under a policy of insurance;

“auditor” means a person who is registered as a public auditor in terms of the Public Accountants and Auditors Act [*Chapter 27:12*];

“bank” means a person who is registered as a commercial bank or accepting house in terms of the Banking Act [*Chapter 24:01*];

“certificate of approval” means a certificate of approval issued or renewed in terms of subsection (2) of section *seventeen*;

“claims adjuster” means a person who investigates—

- (a) claims for personal injury or property damage; or
- (b) complaints of unsatisfactory service, damaged or defective merchandise received or improper billing;

“Controller” means the Controller of Private Investigators and Security Guards appointed in terms of section *five*;

“company” means a company registered in terms of the Companies Act [*Chapter 24:03*];

“credit bureau” means any person who, for a fee, levy or subscription, supplies—

- (a) in the case of a person who is a body of persons, to any member of such body or to any subscriber to the service provided by such body; or
- (b) in the case of a person who is not a body of persons, to any subscriber to the service provided by such person;

but to no other person, information relating to the financial position of any person;

“debt-collecting agency” means any person who for reward recovers or attempts to recover for another person any money owing to the other person by a third person;

“designated association” means an association of private investigators or security guards designated in terms of subsection (2);

“identity card” means an identity card referred to in subsection (4) of section *twenty-three*;

“insurer” means a person registered as an insurer in terms of the Insurance Act [*Chapter 24:07*];

“licence” means a private investigators licence or a security guards licence;

“licensed”, in relation to a private investigator or security guard, means a private investigator or security guard who is the holder of a private investigators licence or security guards licence, as the case may be;

“licensed premises” has the meaning given by subsection (1) of section 2 of the Liquor Act [*Chapter 14:14*];

“local authority” means a municipal council, town council, local board or rural district council;

“Minister” means the Minister of Home Affairs or such other Minister to whom the President may, from time to time, assign the administration of this Act;

“officer”, in relation to a company, means a director or a manager, secretary or other officer of the company;

“private investigator” has the meaning given by section *three*;

“private investigators licence” means a private investigators licence issued or renewed in terms of subsection (2) of section *seven*;

“public record” means—

- (a) any document, file, record or register—
  - (i) which any member of the public is entitled by virtue of any enactment to inspect or peruse; or
  - (ii) of or from which any member of the public is entitled by virtue of any enactment to obtain a copy or extract;

whether on payment of a fee or otherwise; or

- (b) a newspaper, periodical or other printed publication, published at regular or irregular intervals;
- “responsible employee”, in relation to a private investigator, means a person who in the course of his employment by the private investigator obtains or seeks for any person or supplies to any person any information referred to in subsection (1) of section *three*;
- “security guard” has the meaning given by section four;
- “security guards licence” means a security guards licence issued or renewed in terms of subsection (2) of section thirteen;
- “service record”, in relation to a person who has served in the air force, army, navy or police force of any country, means a record of such service;
- “trust account” means a trust account opened and kept in terms of subsection (1) of section nine.

(2) The Minister may, by statutory instrument, designate an association of private investigators or security guards for the purposes of the definition of “designated association” in subsection (1).

(3) For the purposes of this Act, a person who is an officer of a company which is a licensed security guard shall be deemed to be employed by the company.

### **3 Meaning of “private investigator”**

(1) In this Act, subject to this section—

“private investigator” means a person who, either by himself or in partnership with any other person, carries on a business whereby, at the request of any person as a client of the business and not as a member of the public or any section thereof and for reward, he obtains or seeks for any person or supplies to any person any information relating to—

- (a) the personal actions, behaviour or character; or
- (b) the financial position; or
- (c) the business or occupation; or
- (d) the identity or whereabouts;

of any other person or to suspected criminal offences or civil wrongs, not being information which is contained in a public record.

(2) For the purposes of this section, but without limiting the meaning of the phrase “carries on a business”, a person shall be deemed to carry on a business if he describes himself or holds himself out or allows himself to be described or held out to the public as being ready to carry on the business.

(3) A licensed security guard or person employed by a licensed security guard who carries out initial investigations into a criminal offence or suspected criminal offence discovered by him or reported to him shall not be regarded as a private investigator by reason only of the fact that he carries out such investigations.

(4) Notwithstanding anything contained in subsection (1), a person shall not be regarded as a private investigator by reason only of the fact that—

- (a) he obtains or seeks information for or supplies information to the State or a local authority; or
- (b) he carries on the business of an assessor, bank, claims adjuster, credit bureau, debt-collecting agency, employment agency or insurer; or
- (c) he carries on the business of obtaining or seeking information for or supplying information to any business engaged in the dissemination of news to the public; or
- (d) on behalf of any person he serves or attempts to serve on any other person any legal process; or
- (e) on behalf of any person he exercises or attempts to exercise any right to repossess any article pursuant to a hire purchase or other agreement; or
- (f) he carries on or engages in any business, occupation or profession authorized by or in terms of any enactment regulating such business, occupation or profession.

(5) Notwithstanding anything in subsection (1), the Minister may, by statutory instrument, declare that a person shall not be regarded as a private investigator by reason only of the fact that he carries on or engages in any business, occupation or profession described in such notice.

### **4 Meaning of “security guard”**

(1) In this Act, subject to this section—

“security guard” means a person who, either by himself or in partnership with any other person, carries on a business whereby, for reward—

- (a) he guards, elsewhere than on premises occupied or owned by himself or his partnership or any of his partners, any movable or immovable property belonging to another person; or
- (b) he enters any premises which are not occupied or owned by himself or his partnership or any of his partners for the purpose of advising the occupier or owner of such premises on the desirability of having guarded such premises or any movable property which may from time to time be on such premises or dispatched therefrom; or
- (c) he guards any person as a client of such business.

(2) For the purposes of this section, but without limiting the meaning of the phrase “carries on a business”, a person shall be deemed to carry on a business if he describes himself or holds himself out or allows himself to be described or held out to the public as being ready to carry on the business.

(3) Notwithstanding anything contained in subsection (1), a person shall not be regarded as a security guard by reason only of the fact that—

- (a) he is engaged by the licensee or approved manager or deputy acting for the approved manager of any licensed premises to assist in maintaining order on the licensed premises; or
- (b) he carries on or engages in any business, occupation or profession authorized by or in terms of any enactment regulating such business, occupation or profession.

(4) Notwithstanding anything in subsection (1), the Minister may, by statutory instrument, declare that a person shall not be regarded as a security guard by reason only of the fact that he carries on or engages in any business, occupation or profession described in such notice.

## **5 Appointment of Controller of Private Investigators and Security Guards**

There shall be an officer to be known as the Controller of Private Investigators and Security Guards whose office shall be a public office and form part of the Public Service for the purposes assigned to such officer by or in terms of this Act and for such other purposes as the Minister may determine.

## **PART II**

### **PRIVATE INVESTIGATORS**

## **6 Private investigators to be licensed**

(1) Subject to the provisions of this Act, a person shall not, after the expiry of a period of three months from the date of commencement of this Act, be a private investigator unless he is the holder of a private investigators licence.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 2 of Act No. 22 of 2001]

## **7 Application for, and issue or renewal of, private investigators licences**

(1) An applicant for the issue or renewal of a private investigators licence shall submit to the Controller an application on the prescribed form, together with such documents, fees, information and photographs as may be prescribed.

(2) On receipt of an application in terms of subsection (1), the controller may, after consultation with the Commissioner of Police and such other persons as he thinks fit and subject to subsections (3), (4) and (5), issue or renew a private investigators licence subject to such prescribed conditions as he thinks fit to impose.

(3) Before issuing or renewing a private investigators licence, the controller shall—

- (a) satisfy himself of the financial position, good character and reputation of the applicant concerned; and
- (b) in the case of the renewal of a private investigators licence, take into account any failure by the applicant concerned to comply with—

- (i) one or more of the prescribed conditions, if any, imposed on the issue or any previous renewal of the private investigators licence of such applicant; or
- (ii) any provision of this Act with which it was his duty to comply; or any misconduct or negligence by such applicant in his capacity as a private investigator; and
- (c) if the applicant concerned has, within the period of ten years immediately preceding the date of his application, been convicted—
  - (i) within Zimbabwe of an offence specified in the First Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*]; or
  - (ii) within Zimbabwe of an offence which consists of an attempt, conspiracy or incitement to commit, or of being an accessory after the fact to, an offence referred to in subparagraph (i); or
  - (iii) outside Zimbabwe of an offence, by whatever name called, which, if committed within Zimbabwe, would have been an offence referred to in subparagraph (i) or (ii);

take such conviction into account; and

- (d) take into account any relevant past experience and any service record of the applicant concerned.

(4) The Controller shall not—

- (a) issue a private investigators licence to an applicant which is not a natural person; or
- (b) issue a private investigators licence to, or renew the private investigators licence of, an applicant who—
  - (i) fails to take out or maintain, as the case may be, such policy or policies of insurance with an insurer as the Controller may require to be taken out or maintained to make good any loss resulting from the misconduct or negligence of such applicant or of any person employed by him; or
  - (ii) fails to open or maintain, as the case may be, a trust account; or
  - (iii) is not permanently resident in Zimbabwe; or

- (iv) has, in terms of a law in force in any country—
  - A. been adjudged or otherwise declared bankrupt or insolvent and has not been discharged or rehabilitated; or
  - B. made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside.

(5) Before refusing to issue or renew a private investigators licence, the Controller shall afford the applicant concerned an opportunity to show cause in writing why the private investigators licence should be issued or renewed.

## **8 Licensed private investigators to show certain information on publications, documents and letters**

- (1) A licensed private investigator shall cause to be shown conspicuously—
  - (a) on all advertisements, notices and other publications issued, or accounts, letters and other documents published or sent out, by him or on his behalf in the course of or in connection with the business of a private investigator—
    - (i) his full names; and
    - (ii) the fact that he is a licensed private investigator; and
    - (iii) if he does not carry on business in his own name, the name in which he carries on business;
  - (b) on each letter published or sent out by him or on his behalf in the course of or in connection with the business of a private investigator a statement to the effect that he has no more authority or power than an ordinary private citizen to require a reply to such letter.

(2) A licensed private investigator who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## **9 Licensed private investigators to open and keep trust accounts**

- (1) A licensed private investigator shall—
  - (a) open and keep a trust account at a bank in which he shall, within six days of receiving the same, deposit all moneys held or received by him—
    - (i) for the purpose of meeting expenditure to be incurred by the licensed private investigator while acting; or
    - (ii) to be held on behalf of any person for whom the licensed private investigator is acting or has been acting;

in the course of the business of a private investigator:

Provided that, in addition to any trust account referred to in this paragraph, a licensed private investigator may open and keep a trust account bearing interest at a bank or building society or an institution approved by the Controller for the purpose of this proviso in which the licensed private investigator may, unless otherwise instructed by the person for whom or on whose account the moneys concerned are held, deposit any such moneys as are not immediately required for any purpose; and

- (b) keep proper books of account containing information and particulars concerning—
    - (i) moneys held, paid or received by him for or on account of any person; and
    - (ii) any interest earned by moneys in a trust account referred to in the proviso to paragraph (a) which are payable to any person; and
  - (c) cause the trust account and books of account kept in terms of paragraphs (a) and (b), respectively, to be examined by an auditor at such times and in such manner as may be prescribed; and
  - (d) at such time or times as may be prescribed submit to the Controller a report in the prescribed form from the auditor referred to in paragraph (c) relating to the trust account referred to in that paragraph.
- (2) A person shall not withdraw any moneys from a trust account kept in terms of subsection (1) except—
- (a) to repay them to the person for whom or on whose account the moneys are held or, at the direction in writing of such second-mentioned person, to any person other than the licensed private investigator or his partner, if any, or any employee of a partnership to which the licensed private investigator belongs; or
  - (b) for the purpose of applying them in payment of an account rendered in terms of section *ten*.
- (3) An auditor shall not knowingly disclose to any other person any information obtained by the auditor in the course of an examination referred to in paragraph (c) of subsection (1) unless—
- (a) such disclosure is made to the Controller or the licensed private investigator concerned or a partner of such licensed private investigator; or
  - (b) such disclosure is authorized by or in terms of this Act; or
  - (c) such disclosure is made for the purposes of or in the course of any criminal proceedings; or
  - (d) the licensed private investigator concerned consents to such disclosure.

(4) No amount standing to the credit of a trust account kept in terms of subsection (1) by a licensed private investigator shall—

- (a) form part of the assets of the licensed private investigator or of any partnership to which he belongs; or
- (b) be liable to attachment or execution at the instance of any creditor of the licensed investigator:

Provided that this subsection shall not apply to any excess remaining after payment of the claims of all persons whose moneys have or should have been deposited in such trust account.

(5) On application made by the Controller and on good cause being shown, the High Court or a judge thereof in chambers may—

- (a) prohibit a licensed private investigator from operating in any way on his trust account; and
- (b) appoint a *curator bonis* to administer and control the trust account referred to in paragraph (a) with such duties, powers and rights in relation thereto as the High Court or such judge, as the case may be, thinks fit.

(6) The Master may, on—

- (a) the death or insolvency of, or the assignment of his estate by; or
- (b) the cancellation of the private investigators licence of; or
- (c) the abandonment of his business as a private investigator by;

a licensed private investigator keeping a trust account in terms of subsection (1) or on such licensed private investigator being declared by a court of competent jurisdiction to be incapable of managing his affairs and on application made by the Controller or by any person having an interest in the trust account, appoint a *curator bonis* to administer and control the trust account with such of the prescribed duties, powers and rights as the Master thinks fit.

(7) A person aggrieved by a decision of the Master in terms of subsection (6) may, within thirty days of being notified of such decision, appeal against such decision to the High Court.

(8) On an appeal in terms of subsection (7), the High Court may confirm or amend the decision concerned or give such other decision as it thinks the Master ought to have given.

(9) A bank, building society or institution referred to in subsection (1) at which a licensed private investigator keeps a trust account in terms of that subsection shall not by reason only of the name or style by which the trust account is distinguished be deemed to have knowledge that the licensed private investigator is not entitled absolutely to all moneys credited or paid to the trust account.

Provided that nothing in this section shall relieve any such bank, building society or institution from any liability or obligation to which it would be subject apart from this Act.

(10) Notwithstanding anything in subsection (9), a bank, building society or institution referred to in subsection (1) at which a licensed private investigator keeps a trust account in terms of that subsection shall not in respect of any liability of the licensed private investigator to such bank, building society or institution, not being a liability arising out of or in connection with the trust account, have or obtain any recourse or right, whether by way of charge, claim, counterclaim, lien, right, set-off or otherwise, against moneys standing to the credit of the trust account.

(11) Nothing in this section shall be construed so as to—

- (a) deprive a bank, building society or institution referred to in subsection (1) of any right existing at the date of commencement of this Act; or
- (b) affect or take away any charge, claim, counterclaim, lien, right or set-off of any kind which a licensed private investigator may have against or on any money held or received by him on account of any other person.

(12) A person who contravenes—

- (a) subsection (1), (2) or (3); or
- (b) a prohibition made in terms of subsection (5);

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(13) In this section—

“Master” means the Master of the High Court.

## 10 Licensed private investigators to render accounts to clients

(1) A licensed private investigator shall—

- (a) within seven days after being requested to do so by any person for whom the licensed private investigator is acting in the course of the business of a private investigator; or
- (b) if no request referred to in paragraph (a) is made, within twenty-eight days after the licensed private investigator ceases to act for the person referred to in that paragraph;

render to such person an account in writing setting out full particulars of all moneys received by the licensed private investigator for or on behalf of such person and of how such moneys have been expended.

(2) A licensed private investigator who has rendered an account in terms of subsection (1) in respect of any moneys expended by him in the course of acting for a person may appropriate any moneys standing to the credit of the person in the trust account concerned in satisfaction of the account so rendered.

(3) Subject to subsection (2), a licensed private investigator shall—

- (a) within seven days after being requested to do so by any person for whom the licensed private investigator is acting in the course of the business of a private investigator; or
- (b) if no request referred to in paragraph (a) is made, within twenty-eight days after the licensed private investigator ceased to act for the person referred to in that paragraph;

pay to such person all moneys held for such person in the trust account of the licensed private investigator.

(4) A licensed private investigator who contravenes subsection (1) or (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## 11 Duration and cancellation of private investigators licences

(1) Subject to this section, a private investigators licence shall be valid for such period as may be prescribed.

(2) The Controller may, after consultation with the Commissioner of Police, the appropriate designated association and such other persons as he thinks fit and subject to subsection (3), cancel a private investigators licence if the holder thereof—

(a) fails to comply with—

- (i) one or more of the prescribed conditions, if any, imposed on the issue or renewal of the private investigators licence; or
- (ii) any provision of this Act with which it is his duty to comply;

or

(b) is, in the opinion of the Controller, guilty of misconduct or negligence in his capacity as a private investigator; or

(c) has, since the issue or latest renewal of his private investigators licence, been convicted of an offence referred to in paragraph (c) of subsection (3) of section seven; or

(d) fails to maintain the relevant policy or policies of insurance or the trust account referred to in subparagraph (i) or (ii) of paragraph (b) of subsection (4) of section seven; or

(e) ceases to be permanently resident in Zimbabwe; or

(f) has, in terms of a law in force in any country—

- (i) been adjudged or otherwise declared bankrupt or insolvent and has not been discharged or rehabilitated; or
- (ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;

or

(g) requests such cancellation.

(3) Before cancelling a private investigators licence otherwise than at the request of the holder thereof, the Controller shall afford such holder an opportunity to show cause in writing why his private investigators licence should not be cancelled.

## PART III

### SECURITY GUARDS

## 12 Security guards to be licensed

(1) Subject to this Act, a person shall not be a security guard unless he is the holder of a security guards licence.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## 13 Application for, and issue or renewal of, security guards licences

(1) An applicant for the issue or renewal of a security guards licence shall submit to the Controller an application on the prescribed form, together with such documents, fees, information and photographs as may be prescribed.

(2) On receipt of an application in terms of subsection (1), the Controller may, after consultation with the Commissioner of Police and such other persons as he thinks fit and subject to subsections (3), (4) and (5), issue or renew a security guards licence subject to such prescribed conditions as he thinks fit to impose.

(3) Before issuing or renewing a security guards licence, the Controller shall—

- (a) satisfy himself—

- (i) in the case of an applicant who is a natural person, of the financial position, good character and reputation of the applicant; or
  - (ii) in the case of an applicant which is a company or partnership, of the good character and reputation of each director or partner, as the case may be, and of the financial position of the company or partnership;
- and
- (b) in the case of the renewal of a security guards licence held by—
    - (i) a natural person, take into account any failure by such person; or
    - (ii) a company or partnership, take into account any failure by the company or partnership or any officer or partner thereof;to comply with—
    - A. one or more of the prescribed conditions, if any, imposed on the issue or any previous renewal of such security guards licence; or
    - B. any provision of this Act with which it was his or its duty to comply;or any misconduct or negligence by the natural person, company, partnership, officer or partner, as the case may be, in his or its capacity as a security guard; and
  - (c) if—
    - (i) in the case of an applicant who is a natural person, such applicant; or
    - (ii) in the case of an applicant which is a company or partnership, such applicant or any officer or partner thereof;has, within the period of ten years immediately preceding the date of his or its application, been convicted—
    - A. within Zimbabwe of an offence specified in the First Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*]; or
    - B. within Zimbabwe of an offence which consists of an attempt, conspiracy or incitement to commit, or of being an accessory after the fact to, an offence referred to in subparagraph A; or
    - C. outside Zimbabwe of an offence, by whatever name called, which, if committed within Zimbabwe, would have been an offence referred to in subparagraph A or B;take such conviction into account; and
  - (d) take into account—
    - (i) in the case of an applicant who is a natural person, any relevant past experience and any service record of such applicant; or
    - (ii) in the case of an applicant which is a company or partnership, any relevant past experience and any service record of each director or partner, as the case may be.
- (4) The Controller shall not issue a security guards licence to, or renew the security guards licence of, an applicant—
- (a) who fails to take out or maintain, as the case may be, such policy or policies of insurance with an insurer as the Controller may require to be taken out or maintained to make good any loss resulting from the misconduct or negligence of such applicant or of any officer, partner or employee thereof; or
  - (b) who fails to satisfy the Controller that—
    - (i) in the case of an applicant who is a natural person, he owns in Zimbabwe assets which exceed his liabilities by not less than ten thousand dollars; or
    - (ii) in the case of an applicant which is a company or partnership, each director or partner thereof owns in Zimbabwe assets which exceed his liabilities by not less than ten thousand dollars;
- or
- (c) who is a natural person if he—
    - (i) is not permanently resident in Zimbabwe; or
    - (ii) has, in terms of a law in force in any country—
      - A. been adjudged or otherwise declared bankrupt or insolvent and has not been discharged or rehabilitated; or
      - B. made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;
  - (d) which is a company or partnership if any director or partner thereof—
    - (i) is not permanently resident in Zimbabwe; or
    - (ii) has, in terms of a law in force in any country—
      - A. been adjudged or otherwise declared bankrupt or insolvent and has not been discharged or rehabilitated; or
      - B. made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside.

(5) Before refusing to issue or renew a security guards licence, the Controller shall afford the applicant concerned an opportunity to show cause in writing why the security guards licence should be issued or renewed.

#### **14 Persons not to act as directors or partners of certain licensed security guards without approval of Controller**

(1) In the case of a licensed security guard which is—

(a) a company, a person who is not a director of the company at the time when the security guards licence concerned is issued or renewed shall not subsequently become a director of the company; or

(b) a partnership, a person who is not a partner thereof at the time when the security guards licence concerned is issued or renewed shall not subsequently be admitted as a partner thereof;

until the first or next renewal, as the case may be, of such security guards licence without the prior approval in writing of the Controller.

(2) A licensed security guard may at any time apply in writing to the Controller for the approval referred to in subsection (1).

(3) The Controller may, on an application in terms of subsection (2), grant, subject to such conditions as he thinks fit to impose, or withhold the approval applied for.

(4) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(5) A licensed security guard which—

(a) is a company or partnership; and

(b) permits any person to act or employs any person as a director or partner of the company or partnership in contravention of subsection (1);

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

#### **15 Duration and cancellation of security guards licence**

(1) Subject to the provisions of this section, a security guards licence shall be valid for such period as may be prescribed.

(2) The Controller may, after consultation with the Commissioner of Police, the appropriate designated association and such other persons as he thinks fit and subject to subsection (3), cancel a security guards licence if the holder thereof—

(a) fails to comply with one or more of the prescribed conditions, if any, imposed on the issue or renewal of the security guards licence or to comply with any provision of this Act with which it is his or its duty to comply; or

(b) has, since the issue or renewal of the security guards licence, been convicted of an offence referred to in paragraph (c) of subsection (3) of section *thirteen*; or

(c) fails to maintain the policy or policies of insurance referred to in paragraph (a) of subsection (4) of section *thirteen*; or

(d) being a natural person—

(i) is, in the opinion of the Controller, guilty of misconduct or negligence in his capacity as a security guard; or

(ii) has ceased to own in Zimbabwe assets which exceed his liabilities by not less than ten thousand dollars; or

(iii) has ceased to be permanently resident in Zimbabwe;

or

(e) being a company or partnership, has a director or partner who—

(i) fails to comply with one or more of the prescribed conditions, if any, imposed on the issue or renewal of the security guards licence or with any provision of this Act with which it is his duty to comply; or

(ii) is, in the opinion of the Controller, guilty of misconduct or negligence in his capacity as a security guard; or

(iii) has, since the issue or latest renewal of the security guards licence, been convicted of an offence referred to in paragraph (c) of subsection (3) of section *thirteen*; or

(iv) has ceased to be permanently resident in Zimbabwe; or

(v) has ceased to own in Zimbabwe assets which exceed his liabilities by not less than ten thousand dollars;

or

(f) the holder thereof requests such cancellation.

(3) Before cancelling a security guards licence otherwise than at the request of the holder thereof, the Controller shall afford such holder an opportunity to show cause in writing why his security guards licence should not be cancelled.

## PART IV

### RESPONSIBLE EMPLOYEES OF PRIVATE INVESTIGATORS

#### 16 Responsible employees of private investigators to hold certificates of approval

(1) Subject to section *eighteen*—

- (a) a licensed private investigator shall not, after the expiry of a period of three months from the date of commencement of this Act, employ or permit to act as or hold himself out as being his responsible employee any person who is not the holder of a certificate of approval; or
- (b) a person shall not, after the expiry of a period of three months from the date of commencement of this Act, be employed or act as or hold himself out as being a responsible employee of a private investigator if he does not hold a certificate of approval.

(2) A person who contravenes paragraph (a) or (b) of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

#### 17 Application for, and issue of renewal of, certificates of approval

(1) An applicant for the issue or renewal of a certificate of approval shall submit to the Controller an application on the prescribed form, together with such documents, fees, information and photographs as may be prescribed.

(2) On receipt of an application in terms of subsection (1), the Controller may, subject to subsections (3), (4) and (5), issue or renew a certificate of approval to be a responsible employee of a private investigator, subject to such prescribed conditions as the Controller thinks fit to impose.

(3) Before issuing or renewing a certificate of approval, the Controller shall—

- (a) satisfy himself of the good character and reputation of the applicant concerned; and
- (b) in the case of the renewal of a certificate of approval, take into account any failure by the applicant concerned to comply with—
  - (i) one or more of the prescribed conditions, if any, imposed on the issue or any previous renewal of the certificate of approval of such applicant; or
  - (ii) any provision of this Act with which it is his duty to comply;or any misconduct or negligence by such applicant in his capacity as a responsible employee; and
- (c) if the applicant concerned has, within the period of ten years immediately preceding the date of his application, been convicted—
  - (i) within Zimbabwe of an offence specified in the First Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*]; or
  - (ii) within Zimbabwe of an offence which consists of an attempt, conspiracy or incitement to commit, or of being an accessory after the fact to, an offence referred to in subparagraph (i); or
  - (iii) outside Zimbabwe of an offence, by whatever name called, which, if committed within Zimbabwe, would have been an offence referred to in subparagraph (i) or (ii);take such conviction into account; and

(d) take into account any relevant past experience and any service record of the applicant concerned.

(4) The Controller shall not—

- (a) issue a certificate of approval to an applicant which is not a natural person; or
- (b) issue a certificate of approval to, or renew the certificate of approval of, an applicant who—
  - (i) is not permanently resident in Zimbabwe; or
  - (ii) has, in terms of a law in force in any country—
    - A. been adjudged or otherwise declared bankrupt or insolvent and has not been discharged or rehabilitated; or
    - B. made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside.

(5) Before refusing to issue or renew a certificate of approval, the Controller shall afford the applicant concerned an opportunity to show cause in writing why the certificate of approval should be issued or renewed.

#### 18 Temporary permission to engage responsible employees

(1) Notwithstanding anything in section *sixteen*, a police officer of or above the rank of superintendent may, at the request in writing of a licensed private investigator, in writing and subject to subsection (2)—

- (a) permit the licensed private investigator to employ or permit to act as or hold himself out as being his responsible employee the person in respect of whom the request is made for a period not exceeding sixty days;
- (b) renew any permission given in terms of paragraph (a) for a period of sixty days.

(2) Permission given or renewed in terms of subsection (1) shall cease to be of force and effect on the issue of, or the refusal to issue, a certificate of approval in respect of the person concerned in terms of section *seventeen*.

### **19 Changes of employment by holders of certificates of approval to be notified**

(1) A holder of a certificate of approval who changes his employment shall, within seven days of such change, notify the Controller in writing of such change and of the name and address of his new employer.

(2) If the holder of a certificate of approval leaves the employment of a licensed private investigator, the licensed private investigator shall, within seven days thereafter, notify the Controller in writing thereof.

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

### **20 Duration and cancellation or suspension of certificates of approval**

(1) Subject to this section, a certificate of approval shall be valid for such period as may be prescribed.

(2) The Controller may, after consultation with the Commissioner of Police, the licensed private investigator employing the holder of the certificate of approval concerned and such other persons as he thinks fit and subject to subsection (4).

(a) cancel such certificate of approval; or

(b) suspend such certificate of approval for such period, not exceeding three years, as the Controller thinks fit;

on one or more of the grounds specified in subsection (3).

(3) A certificate of approval may be cancelled or suspended if the holder thereof—

(a) fails to comply with—

(i) one or more of the prescribed conditions, if any, imposed on the issue or renewal of the certificate of approval; or

(ii) any provision of this Act with which it is his duty to comply;

or

(b) is, in the opinion of the Controller, guilty of misconduct or negligence in his capacity as a responsible employee; or

(c) has, since the issue or renewal of the certificate of approval, been convicted of an offence referred to in paragraph (c) of subsection (3) or section *seventeen*; or

(d) has ceased to be permanently resident in Zimbabwe; or

(e) has, in terms of a law in force in any country—

(i) been adjudged or otherwise declared bankrupt or insolvent and has not been discharged or rehabilitated; or

(ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;

or

(f) ceases to be employed by a licensed private investigator; or

(g) requests such cancellation or suspension.

(4) Before cancelling or suspending a certificate of approval otherwise than at the request of the holder thereof, the Controller shall afford such holder an opportunity to show cause in writing why his certificate of approval should not be cancelled or suspended.

(5) While a certificate of approval is suspended in terms of subsection (2)—

(a) the certificate of approval shall be deemed to be invalid and shall not be renewed; and

(b) no private investigators licence and no new certificate of approval shall be issued to the holder of the certificate of approval which is so suspended.

## **PART V**

### **GENERAL**

### **21 Statements by Controller**

A statement under the hand of the Controller—

(a) that a person specified therein is or is not the holder of a licence or certificate of approval or was or was not such holder at any particular time or during any period specified therein; or

(b) concerning any entry in a register maintained by him for the purposes of this Act; shall be proof, unless the contrary is proved, of the facts so stated on its mere production by any person.

## 22 Appeals from decisions of Controller

(1) A person who is aggrieved by a decision of the Controller—

- (a) to refuse to issue or renew a licence or certificate of approval or to impose any prescribed condition on the issue or renewal of a licence or certificate of approval; or
- (b) to cancel a licence or to cancel or suspend a certificate of approval;

as the case may be, may appeal in writing against such decision to the Minister within such period from the date of such decision as may be prescribed.

(2) The Minister may, on an appeal in terms of subsection (1), confirm, amend or set aside the decision appealed against and such confirmation, amendment or setting aside shall be final.

## 23 Duties of holders of licences and others

(1) The holder of a licence shall—

(a) at all times display in the uninterrupted view of the public—

- (i) at his or its principal place of business the licence and, if such holder is a licensed security guard, such tariff of charges as may be prescribed in respect of licensed security guards; and
- (ii) at all his or its places of business a conspicuous notice stating—
  - A. his or its full names; and
  - B. the fact that he or it is a licensed private investigator or licensed security guard, as the case may be; and
  - C. if he or it does not carry on business in his or its own name, the name in which he or it carries on business:

and

(b) maintain at his or its principal place of business a register in the prescribed form showing—

- (i) in the case of a licensed private investigator, his own daily activities and those of his responsible employees, if any;
- (ii) in the case of a licensed security guard who is a natural person, his own daily activities and those of his employees who are engaged in the business to which his security guards licence relates;
- (iii) in the case of a licensed security guard which is a company or partnership, the daily activities of its officers or partners and those of its employees who are engaged in the business to which its security guards licence relates:

Provided that the Controller may, by notice in writing served on such licensed security guard, permit such licensed security guard to omit from such register the daily activities of any officer, partner or employee specified in such notice;

and

(c) maintain at his or its principal place of business proper books of account.

(2) Subject to subsection (3)—

- (a) the holder of a licence shall on demand produce the licence, any tariff of charges, the register and the books of account referred to in subsection (1); or
- (b) the holder of a certificate of approval shall on demand produce the certificate of approval;

to the Controller or any person authorized by the Controller for the purposes of this section or to any police officer of or above the rank of inspector.

(3) If the holder of a security guards licence is a company or partnership, it shall be sufficient compliance with the requirements of subsection (2) if the documents referred to in paragraph (a) of that subsection are—

- (a) kept at the principal place of business of the company or partnership, as the case may be; and
- (b) made available on demand for inspection by any person referred to in subsection (2).

(4) When engaged in the business to which the licence concerned relates—

- (a) a licensed private investigator and any responsible employee of the licensed private investigator; and
- (b) a licensed security guard who is a natural person and each of his employees; and
- (c) each officer, partner or employee of a licensed security guard which is a company or partnership;

shall carry on his person the appropriate prescribed identity card and shall on demand produce such identity card to any person with whom he is dealing in the course of transacting or attempting to transact such business.

(5) The holder of a licence or certificate of approval which is cancelled or suspended in terms of this Act shall deliver such licence or certificate of approval to the Controller within seven days of being notified of such cancellation or suspension.

(6) A person who contravenes subsection (1), (2), (4) or (5) shall be guilty of an offence and liable—

- (a) in the case of a contravention of paragraph (a) of subsection (1), to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment;

- (b) in the case of a contravention of paragraph (b) or (c) of subsection (1), to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
- (c) in the case of a contravention of subsection (2), (4) or (5), to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Section substituted by section 4 of Act No. 22 of 2001]

## 24 Restrictions on activities of holders of licences and certificates of approval

- (1) A person to whom, in terms of subsection (2), this subsection apply shall not—
  - (a) use any badge, rank, title or uniform which has not been approved by the Minister in writing; or
  - (b) notwithstanding anything in any other enactment, carry, whilst engaged in the business to which the licence concerned relates, any fire-arm without the permission in writing of the Minister unless he is carrying the fire-arm while guarding moneys or other valuables which are being transported from place to place; or
  - (c) represent himself to be a member of the Public Service; or
  - (d) in the case of a licensed security guard, make a charge for services rendered which is less than the appropriate charge set out in the tariff of charges referred to in subparagraph (i) of paragraph (a) of subsection (1) of section *twenty-three*; or
  - (e) possess or use any device or instrument for the tapping of telephones; or
  - (f) use any camera, cinematograph camera, long range listening device, microphone, television camera or video tape camera for the surreptitious surveillance of persons:

Provided that nothing contained in this paragraph shall be construed as preventing the use of surveillance systems in or on any premises with the consent of the occupier or owner thereof; or

- (g) induce, persuade or otherwise assist or cause any person to commit an offence by means of the practice known as trapping.
- (2) Subsection (1) shall apply to a person who is—
  - (a) a licensed private investigator or a responsible employee of a licensed private investigator; or
  - (b) a licensed security guard or an officer or partner or employee of a licensed security guard.
- (3) A licensed security guard which is a company or partnership shall notify the Controller in writing of such personal particulars as may be prescribed of each officer or partner who ceases to be an officer or partner, as the case may be, and shall surrender to the Controller the identity card of such officer or partner.
- (4) The holder of a licence shall—
  - (a) on ceasing to carry on business as a private investigator or security guard, as the case may be, notify the Controller in writing accordingly and surrender his identity card, if any, to the Controller; and
  - (b) when any responsible employee or employee, as the case may be, who is the holder of an identity card ceases to be employed by him, ensure that the identity card is surrendered to the Controller.
- (5) A responsible employee or employee, as the case may be, of a private investigator or security guard who is the holder of an identity card shall, when he ceases to be so employed, return the identity card to his employer.
- (6) A person who contravenes subsection (1), (2), (3), (4) or (5) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## 25 Holders of licences and others to report certain offences to police

- (1) Subject to section (3), if any information which discloses the commission or proposed commission of a criminal offence for which the offender is liable to be sentenced to a fine of not less than level five or to imprisonment without the option of a fine comes into the possession of a person who is—
  - (a) the holder of a private investigators licence or a responsible employee of a licensed private investigator; or
  - (b) the holder of a security guards licence or an officer, partner or employee of a licensed security guard;
 such person shall forthwith report such information to a police officer.

[Subsection as amended by section 4 of Act No. 22 of 2001]

- (2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection substituted by section 4 of Act No. 22 of 2001]

- (3) A person shall not be required to report information to a police officer in terms of subsection (1)—
  - (a) where the information did not come into his possession in the course of his duties as the holder of a licence or as a partner, officer or employee of a licensed person, as the case may be; or
  - (b) if, when the information came into his possession or shortly thereafter, he had reasonable grounds for believing that—
    - (i) one or more police officers were already in possession of the information; or
    - (ii) the information would not assist in the detection or prevention of the offence concerned.

[Subsection substituted by section 4 of Act No. 22 of 2001]

## 26 Regulations

(1) The Minister may make regulations providing for all or any of the matters which—

- (a) by this Act are required or permitted to be prescribed; or
- (b) in his opinion are convenient or necessary to be prescribed for carrying out or giving effect to this Act.

(2) In the exercise of the powers conferred on him by subsection (1), the Minister may provide for all or any of the matters set out in the Schedule.

## 27 Criminal responsibility of holders of licences of certain offences by agents or employees

(1) Whenever any agent or employee of the holder of a licence does or omits to do any thing which it would be an offence in terms of this Act for such holder to do or omit to do, such holder shall be deemed himself or itself to have done or omitted to do such thing and shall be liable to be convicted thereof and sentenced therefor, unless he proves to the satisfaction of the court concerned that—

- (a) in doing or omitting to do such thing such agent or employee was acting without his connivance or permission; and
- (b) subject to the provisions of subsection (2), all reasonable steps were taken by him to prevent any act or omission of the kind in question; and
- (c) it was not under any condition or in any circumstances within the scope of the authority or in the course of the employment of such agent or employee to do or omit to do acts, whether lawful or unlawful, of the character of the act or omission charged.

(2) The fact that the holder of a licence issued instructions forbidding any act or omission of the kind in question shall not of itself be accepted as sufficient proof that such holder took all reasonable steps to prevent such act or omission within the meaning of paragraph (b) of subsection (1).

(3) Whenever the holder of a licence is, by virtue of subsection (1), liable for anything done or omitted to be done by another person, such other person shall also be liable therefor as if he were such holder:

Provided that this section shall not relieve such other person from any other liability which he may have incurred apart from the liability which he shares with such holder.

(4) This section shall not be construed as in any way derogating from the provisions of section 385 of the Criminal Procedure and Evidence Act [Chapter 9:07].

## 28 Licences and certificates of approval not to confer powers on holders thereof

(1) A person shall not, by virtue of being the holder of a licence or certificate of approval, have any authority or power which he would not have had if this Act had not been passed.

(2) The holder of a licence or certificate of approval shall not—

- (a) either orally or in writing claim, imply or suggest that, by virtue of his licence, certificate of approval, business or occupation, he has any authority or power which he does not have in law; or
- (b) use or attempt to use his licence or certificate of approval for the purpose of claiming, exercising, implying or suggesting an authority or power which he does not have in law; or
- (c) either orally or in writing describe or refer to himself as a detective or by any other expression or term containing the word “detective”.

(3) A person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

29...

[Section repealed by section 4 of Act No. 22 of 2001]

## SCHEDULE (Section 26 (2))

### MATTERS IN RESPECT OF WHICH MINISTER MAY MAKE REGULATIONS

1. The forms to be used for the purposes of this Act and the matters to be specified in such forms.
2. The fees payable in terms of this Act in respect of applications for and the issue and renewal of licences and certificates of approval.
3. The audit of the trust accounts of licensed private investigators. the manner in which such audit is to be conducted and the report to be compiled on the results of such audit.
4. The giving of notice by licensed private investigators of the appointment of auditors.
5. The power of the Controller to direct the audit of any trust accounts of licensed private investigators.
6. The production to auditors of accounts, books and papers of licensed private investigators.
7. The persons to whom the reports of auditors shall be sent for information, inspection or record.
8. A code of ethics for licensed private investigators and responsible employees and for licensed security guards and their officers and employees.
9. The procedure to be adopted in relation to appeals in terms of section *twenty-two*.
10. The manner in which registers and books of account referred to in section *twenty-three* are to be maintained.

11. The maintenance by the Controller of a register containing details of all licences and certificates of approval and of all holders of licences or certificates of approval.
12. The maintenance by—
  - (a) licensed private investigators of registers of persons who are or have been their responsible employees; and
  - (b) licensed security guards of registers of persons who are or have been their employees; and the inspection of such registers by the Controller or any person authorized by the Controller or by any police officer of or above the rank of inspector.
13. Penalties for any contravention of or offence in terms of any regulations:  
Provided that such penalties shall not exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Paragraph as amended by section 4 of Act No. 22 of 2001]

downloaded from [www.law.co.zw](http://www.law.co.zw)