



# LESOTHO

## Government Gazette

### EXTRAORDINARY

Vol. XLVII

Wednesday - 20<sup>th</sup> March, 2002

No. 30

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Published by the Authority of His Majesty the King  
Price : M3.00

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**ACT NO. 11 OF 2002****PRIVATE SECURITY OFFICERS' ACT 2002**

**An Act to provide for the establishment of the Private Security Officers' Board, to regulate and to exercise control over Private Security Officers and Private Security Guards and for incidental matters.**

**Enacted by the Parliament of Lesotho**

**Short title and commencement**

1. This Act may be cited as the Private Security Officers' Act 2002 and shall come into operation on the date of its publication in the Gazette.

**Interpretation**

2. In this Act, unless the context otherwise requires -

“Board” means the Private Security Officers' Board established under section 3;

“certificate of registration” means a certificate of registration or a duplicate certificate of registration issued under section 11;

“company” has the same meaning as in the Companies Act, 1967<sup>1</sup>;

“Minister” means the Minister responsible for Home Affairs;

“partnership” has the same meaning as in the Partnership Proclamation 1957<sup>2</sup>;

“person” has the same meaning as in the Interpretation Act 1977<sup>3</sup>;

“Private Security Guard” means a person employed to protect or safeguard people or property;

“Private Security Officer” means a person who engages in the business of providing security services;



"Private Security Service" means a service rendered by a Private Security Officer for reward by -

- (a) making Private Security Guards available for the protection or safeguarding of people or property in accordance with an arrangement concluded with such other person; or
- (b) advising such other person in connection with the protection or safeguarding of people or property.

"Registrar" means the Registrar of the Board.

### **Establishment of the Board**

3. (1) There is established a Board to be known as the Private Security Officers' Board.

(2) the Board shall consist of -

- (a) the Principal Secretary for the Ministry of Home Affairs who shall be chairman;
- (b) the Commissioner of Police;
- (c) the Director General of the National Security Service;
- (d) the Commander of the Lesotho Defence Force;
- (e) the Principal Secretary for the Ministry of Trade and Industry;
- (f) four members who have wide experience in security matters; and
- (g) a legal expert nominated by the Minister.

(3) The members referred to in subsection (2) (f) shall, on the advice of an association of Private Security Services or Companies, be appointed by the Minister by notice published in the Gazette and shall, subject to this Act, hold office for a period of five years.

(4) No person shall be appointed as a member of the Board unless he is

a citizen of Lesotho.

- (5) If a member appointed under subsection (2) (f) ceases to hold office before the expiry of his term of office, the Minister may appoint a person to fill the vacancy for the unexpired term of office of that member.

#### **Functions of the Board**

4. (1) The Board shall –
- (a) with the approval of the Minister prescribe –
    - (i) conditions for training of Private Security Guards;
    - (ii) types and number of firearms to be used in the Private Security Industry;
    - (iii) types of uniform and badges of rank for Private Security Guards; and
    - (iv) types of armouries and storage of firearms, uniform and other equipment.
  - (b) draw up a code of conduct for Private Security Guards;
  - (c) screen applications for prospective Private Security Officers and Private Security Guards for any criminal record and in order to ascertain if they are fit and proper persons to be employed in the private security industry;
  - (d) issue certificates of registration;
  - (e) suspend, withdraw or remove the name of the registered Private Security Officer or Private Security Guard from operating as a Private Security Officer or Private Security Guard where they have acted contrary to the provisions of this Act;
  - (f) lay down the criteria for the establishment, management and recruitment of personnel and the standards to be maintained in the operations of Private Security Officers or Private



Security Guards;

- (g) raise the status, maintain the integrity and promote the interests of Private Security Guards in the country;
- (h) recommend to the Minister upon any matter affecting the well being of Private Security Guards; and
- (i) give advice in connection with the training of Private Security Guards, and promote the standards of training of Private Security Guards;

(2) A code of conduct drawn up pursuant to subsection (1) paragraph(b) shall be published by notice in the Gazette.

#### **Meetings of the Board**

5. (1) The Board shall meet whenever the business of the Board requires but at least once in every 3 months.

(2) The Chairman shall preside at all meetings of the Board and in his absence, the members present shall elect one of their numbers to preside.

(3) At the meetings of the Board, two thirds of the members of the Board shall form a quorum.

(4) The decisions of the Board shall be by a majority of votes and in the event of equality of votes, the Chairman shall have a casting vote as well as a deliberative vote.

(5) The Board may, subject to this section, regulate its procedure at its meetings.

#### **Rules**

6. (1) The Minister may, on the advice of the Board, make rules necessary or expedient for the performance of the functions and duties of the Board and for the exercise of its powers under this Act, and without prejudice to the generality of the powers conferred by this Act, such rules may prescribe -

- (a) the manner in which complaints or charges brought against a person

registered under this Act are lodged;

- (b) the method of summoning an accused person, to attend an inquiry and the penalties for failure or refusal on the part of the accused person to attend when summoned or for obstructing or interrupting the proceedings;
  - (c) forms for summoning attendance of witnesses or production of any book, record, document or any other thing.
- (2) The Chairman of the Board shall cause rules made under subsection (1) to be published by notice in the Gazette.

#### **Registrar**

7. (1) Subject to the laws relating to the Public Service, the Minister shall appoint a Registrar of the Board who shall be a public officer.

(2) The Registrar shall-

- (a) establish and maintain a register of all Private Security Officers and Private Security Guards; and
- (b) be responsible for the day to day running of the business of the Board.

#### **Prohibition to render a Private Security Service without a certificate of registration**

8. (1) Upon the coming into operation of this Act -

- (a) no person shall render a private security service unless he has been issued with a certificate of registration as required by this Act, and if such a person is a company, every director is registered with the Board;
- (b) no partnership shall render a private security service unless every partner is registered with the Board and issued with a certificate of registration as required by this Act;
- (c) an employee of a person or partnership rendering a security



service shall not render a security service unless he is registered with the Board as a Private Security Officer.

(2) Notwithstanding the provisions of subsection(1), a person, company or partnership and every director in the company or partner in the partnership already rendering private security service in Lesotho immediately before the coming into operation of this Act may continue to operate without registering for a period of six months within which time the person shall register in accordance with the provisions of this Act.

(3) A person who contravenes this section commits an offence and is liable on conviction to a fine not less than M10,000 but not exceeding M20,000 or to imprisonment for a period not exceeding 5 years or both.

#### **Application for registration as a Private Security Officer**

9. (1) A person who wishes to register as a Private Security Officer shall apply to the Board on the prescribed form.

(2) The application made pursuant to subsection(1) shall be accompanied by the following:

- (a) a clear and complete set of finger prints of the applicant if the applicant is a natural person or of each director if the applicant is a company or each partner if the applicant is a partnership; and
- (b) the prescribed application fee; and
- (c) the bank statement from a local bank.

(3) The Board shall, where it is satisfied that the applicant has complied with the provisions of this Act, and subject to section 10, approve the application and register the applicant as a Private Security Officer on such terms and conditions as it may determine.

(4) Every Private Security Officer shall, before employing any person as a Private Security Guard, ensure that the person is registered with the Board as a Private Security Guard.



**Disqualifications**

10. (1) No person shall qualify to register as a Private Security Officer or a Private Security Guard if -

- (a) he was at any time, whether before or after the commencement of this Act, convicted in Lesotho or elsewhere of any offence punishable by imprisonment;
- (b) he has been found guilty of any offence involving dishonesty or use of dangerous weapons;
- (c) he suffers from mental incapacity as defined by Mental Health Law<sup>4</sup>;
- (d) he is under the age of 18 years;
- (e) he is an unrehabilitated insolvent; or
- (f) he is suffering from habitual drunkenness or from narcotics addiction or dependence.

(2) No company or partnership shall qualify to register as a Private Security Officer, if a director of the company or a partner in the partnership is in terms of subsection (1) not qualified to register as a Private Security Officer.

(3) A person who contravenes this section commits an offence and is liable on conviction to a fine not less than M10,000 but not exceeding M20,000 or to imprisonment for a period not exceeding 5 years or both.

**Certification of registration**

11. (1) Where a person has been registered as a Private Security Officer pursuant to subsection 9(3), the Board shall issue to him a certificate of registration in the prescribed form.

(2) If a certificate of registration is lost, destroyed or defaced, the Private Security Officer may apply in writing to the Registrar for a duplicate certificate of registration and upon being satisfied as to the loss, destruction or defacement, the Board shall issue to the Private Security Officer a duplicate certificate of registration.

**Register**

12. The Registrar shall keep a register in which he shall enter the names and prescribed particulars of each Private Security Officer or Private Security Guard whose application under section 9 has been approved and he shall regularly update such register.

**Cancellation of registration**

13. The Board may cancel the registration of a Private Security Officer or Private Security Guard on the ground that -

- (a) in the case of a natural person, if at any time after his registration-
  - (i) he is found guilty of an offence involving dishonesty or use of dangerous weapons;
  - (ii) he suffers from mental incapacity as defined by the Mental Health law;
  - (iii) he suffers from habitual drunkenness or from narcotics addiction or dependence; or
  - (iv) he acts contrary to the code of conduct drawn up pursuant to this Act.
- (b) in the case of a partnership, if the partner withdraws from the partnership or commits a crime; or
- (c) in the case of a company if the company is not qualified to be registered as a company or if it commits a crime.

**Certificate of registration to be returned on withdrawal of registration**

14. (1) Where the registration of a Private Security Officer is withdrawn under section 13 or 17, the Private Security Officer shall, within 30 days of receiving the notice of the withdrawal of the registration, return to the Registrar the certificate of registration issued to him under section 11 for purposes of cancellation.



(2) A person who contravenes subsection(1) commits an offence and is liable on conviction to a fine not exceeding M10,000 or to imprisonment for a period not exceeding 5 years

#### **Annual fees**

15. (1) A person registered under section 9 (3) shall pay to the Registrar an annual fee prescribed by the Minister.

(2) If a Private Security Officer fails to comply with the provisions of subsection (1), the Board may suspend his registration as a Private Security Officer until he pays the prescribed fee.

(3) Where the amount to be paid under subsection (2) is not received within three months of the date of suspension of the registration of the Private Security Officer concerned, the Board shall cancel registration of that Private Security Officer.

#### **Exhibition of a certificate of registration**

16. (1) Every Private Security Officer shall exhibit in a conspicuous place in any premises in which he carries on business, a certificate of registration issued to him under subsection(1) of section 11 or a certified copy of such certificate issued under subsection (2) of that section.

(2) A Private Security Officer who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding M2,000, or to imprisonment for a period not exceeding 1 year or both.

#### **Disciplinary Powers of the Board**

17. (1) The Board shall have power to enquire into any complaint, charge or allegation against a Private Security Officer or Private Security Guard, or into an improper or disgraceful conduct whether or not in regard to such persons profession or calling, or whether or not prescribed as constituting improper or disgraceful conduct.

(2) The Board may, after the inquiry done pursuant to subsection (1) -

(a) caution or reprimand a Private Security Officer or a Private Security Guard; or



- (b) suspend a Private Security Officer or Private Security Guard for any period from serving in any capacity in which he is registered ; or
- (c) cancel the registration of a Private Security Officer or Private Security Guard under this Act and order the removal of his name from the register.

**Power of the Board with regard to obtaining evidence and the conduct of proceedings**

18. (1) For the purpose of an inquiry under section 17, the Board shall have the following powers:

- (a) to hear, receive and examine evidence on oath;
- (b) to summon any person to attend the inquiry to give evidence or produce any document, book, record or any other thing in his possession and to examine him as a witness or require him to produce any document, book, record or any other thing in his possession or power;
- (c) to admit or exclude the public or any member of the public from the inquiry; and
- (d) to compensate any person summoned to attend the inquiry for reasonable expenses incurred by the person in attending the inquiry.

(2) A summons for attendance of a witness before the Board or for the production of any book, record, document or any other thing shall be in the prescribed form and be signed by the Chairman, and served by registered post or in the same manner as it would be served if it were a subpoena issued by a subordinate court.

**Penalty for failure to give evidence**

19. (1) A person who, being summoned on to attend as a witness to produce a book, record, document or any other thing in any inquiry under section 18-

- (a) fails without reasonable cause to attend and give evidence at the time and place specified in the summons;

- (b) refuses or neglects to produce a book, record, document or any other thing; or
- (c) refuses or neglects to answer any question put to him by the Board,

commits an offence and is liable on conviction to a fine not exceeding M4000.00 or to imprisonment for a period not exceeding 2 years or both.

(2) A witness shall, in respect of any evidence given by him before the Board, be entitled to the same privileges to which he would be entitled when giving evidence before a court of law.

#### **Legal practitioner to be present**

20. In an inquiry under section 17, the complainant and the person whose conduct is subject to an inquiry may be represented by a legal practitioner throughout the inquiry.

#### **Decision of the Board**

21. (1) The Registrar shall cause a copy of any decision made under section 17 to be served upon the person concerned, either personally or by registered post addressed to the registered address of the person concerned.

(2) The Registrar shall not remove the name of a Private Security Officer or Private Security Guard from the register before a period of one month from the date of service of the decision of the Board made under section 17 has expired.

#### **Application to have name restored**

22. (1) A person whose name has been removed from the register under this Act may apply to the Board for the restoration of his name.

(2) The Board may, in its discretion and after such inquiry and subject to such conditions as it may consider desirable approve or, refuse the application to restore the name.

(3) If the Board approves an application made under subsection (1), it shall direct the Registrar to restore the name of the applicant to the register.



### Appeal to the Minister

23. (1) A person aggrieved by-

- (a) the refusal by the Board to grant an application for registration as a Private Security Officer or Private Security Guard;
- (b) the withdrawal by the Board of registration as a Private Security Officer or Private Security Guard; or
- (c) any other findings of the Board at the inquiry

may, within 30 days after he has been notified of the decision referred to in paragraph (a), (b) or (c), appeal against such decision to the Minister.

(2) the Minister may, within 30 days of the lodging of the appeal, confirm, set aside or vary the decision of the Board.

### Rights of a police officer

24. (1) A police officer may at all reasonable times and without a search warrant-

- (a) enter upon or enter any premises or any other place, where he reasonably suspects that an offence under this Act is being committed by a person performing a function of a Private Security Officer or Private Security Guard on any premises or place;
- (b) require a Private Security Officer or Private Security Guard to identify himself and to give proof of his registration as a Private Security Officer or Private Security Guard to the police officer; or
- (c) examine any book, record, document or any other thing in the possession of that person or make extracts from copies of such document, book, record or thing.

(2) A person who wilfully obstructs or resists the police officer in exercising his functions pursuant to this Act commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M10,000 or to imprisonment for a period not less than 2 years but not exceeding 10 years or both.



**Regulations**

25. (1) The Minister may make regulations required or permitted to be prescribed by this Act or necessary or convenient to be prescribed for giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations-

- (a) prescribing fees payable in respect of registration as a Private Security Officer or Private Security Guard;
- (b) prescribing the procedure for appeals;
- (c) in respect of training of Private Security Guards;
- (d) prescribing the uniform of Private Security Guards.

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**NOTE**

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- 1. Act No.25 of 1967
  - 2. Proclamation.78 of 1957
  - 3. Act No .19 of 1977
  - 4. Notice No. 7 of 1964