

1997

CHAPTER P-26.01

An Act respecting Private Investigators and Security Guards

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(Assented to May 21, 1997)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I
Short Title, Interpretation and General Application

Short title

1 This Act may be cited as *The Private Investigators and Security Guards Act, 1997*.

Interpretation

2 In this Act:

- (a) **“amend”** includes:
 - (i) making the licence subject to new or additional terms and conditions; or
 - (ii) modifying, removing or substituting terms and conditions to which the licence is subject;
- (b) **“armoured vehicle service”** means a service that:
 - (i) involves the transportation of property in a vehicle; and
 - (ii) employs a person who is licensed to carry a firearm for use in connection with his or her employment;
- (c) **“commission”** means the Saskatchewan Police Commission continued pursuant to *The Police Act, 1990*;
- (d) **“licence”** means a valid licence issued pursuant to this Act;
- (e) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (f) **“prescribed”** means prescribed in the regulations;
- (g) **“private investigator”** means a person who conducts investigations and supplies information for hire or reward and includes a person who, for hire or reward:
 - (i) searches for and supplies information respecting the personal character or actions of a person, the character of a business or type of business a person is involved in or the occupation of a person;
 - (ii) searches for persons who have or who are alleged to have contravened the law;
 - (iii) searches for missing persons or property; or
 - (iv) performs other prescribed functions;
- (h) **“registrar”** means the person appointed as Registrar of Private Investigators and Security Guards pursuant to section 4 and includes any deputy registrar appointed pursuant to that section;
- (i) **“security guard”** means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property or performs other prescribed functions.

Application of Act

3(1) This Act applies to:

- (a) private investigators;
- (b) security guards; and

- (c) persons who are engaged in the business of providing private investigators or security guards or an armoured vehicle service.
- (2) Notwithstanding subsection (1), this Act does not apply to any prescribed person or class of persons.

Appointment of registrar

4 The minister may appoint a Registrar of Private Investigators and Security Guards and one or more deputy registrars to administer this Act and the regulations.

**PART II
Licensing****Private investigators and security guards**

- 5(1)** No person shall act as a private investigator or a security guard without a licence.
- (2) Subsection (1) applies whether or not the private investigator or security guard is employed by a person who is engaged in the business of providing private investigators or security guards.
- (3) A statement in a letter, advertisement, card or other document that suggests that a person is acting as a private investigator or security guard or is engaged in the business of providing private investigators or security guards is, in the absence of evidence to the contrary, proof that the person is doing so.

Providing private investigators or security guards

6 No person shall engage in the business of providing private investigators or security guards without a licence.

Providing armoured vehicle service

- 7(1)** No person shall engage in the business of providing an armoured vehicle service without a licence.
- (2) Subsection (1) does not apply to employees whose services relate solely to providing an armoured vehicle service for an employer who:
 - (a) is engaged in the business of providing an armoured vehicle service; and
 - (b) is licensed pursuant to this Act.
- (3) A statement in a letter, advertisement, card or other document that suggests that a person is engaged in the business of providing an armoured vehicle service is, in the absence of evidence to the contrary, proof that the person is doing so.

Application re individual service

- 8(1)** Every person who wishes to be licensed as a private investigator or a security guard shall apply to the registrar in the prescribed form for a licence.
- (2) Subsection (1) does not apply to persons who work as private investigators or security guards in the employment of a person who:
 - (a) is engaged in the business of providing private investigators or security guards; and
 - (b) is licensed pursuant to this Act.

Application on behalf of individuals

9(1) Every person who is engaged in the business of providing private investigators or security guards shall apply to the registrar in the prescribed form for a licence for each employee who is to be employed as a private investigator or security guard.

(2) Where a licence is issued on application pursuant to subsection (1), the licence is valid only during the period for which the employee is employed by the person who applied for the licence for that employee.

Application re business

10(1) Every person who is engaged in the business of providing private investigators or security guards shall apply to the registrar in the prescribed form for a licence.

(2) Every person who is engaged in the business of providing an armoured vehicle service shall apply to the registrar in the prescribed form for a licence.

(3) Employees of a person who is licensed to provide an armoured vehicle service may temporarily guard premises to or from which property is transported without obtaining an additional licence if the person who is licensed has received appropriate authorization from the registrar in writing.

Additional requirements

11(1) Every application to the registrar for a licence is to include:

- (a) the prescribed fee;
- (b) the prescribed information; and
- (c) any additional information the registrar may require.

(2) The registrar may require any applicant for a licence and any licensee to deliver within a specified time a bond or other form of security acceptable to the registrar in any amount that the registrar may require.

Registrar may issue or renew licence

12(1) The registrar may issue or renew a licence where the registrar is satisfied that the applicant has complied with this Act and the regulations.

(2) The registrar may refuse to issue or renew a licence where:

- (a) the applicant has not paid any fee required by this Act or the regulations;
- (b) the registrar is satisfied that the applicant cannot reasonably be expected to be responsible as a licensee;
- (c) the registrar is satisfied that the past conduct of the applicant affords reasonable grounds for belief that the applicant will not conduct his or her activity or business with integrity;
- (d) the applicant or an employee of the applicant has contravened this Act, the regulations or a term or condition to which a licence is subject;
- (e) the registrar is satisfied that any security respecting the licence has ceased to be effective for the purpose for which it was given and has not been replaced with security that is the equivalent of the original security;
- (f) the applicant or licensee is convicted of an offence pursuant to any Act, Act of the Parliament of Canada or regulation made pursuant to any Act or Act of the Parliament of Canada;

- (g) the applicant's registration pursuant to *The Business Corporations Act* or *The Business Names Registration Act* has lapsed; or
- (h) the registrar is of the opinion that issuing or renewing the licence would be prejudicial to the public interest.

Terms and conditions

13 When issuing or renewing a licence, the registrar may impose any terms and conditions that the registrar considers appropriate on the licence.

Suspension or cancellation of licence

14 The registrar may amend, suspend or cancel a licence on any ground on which the registrar might have refused to issue or renew the licence or where he or she is satisfied that:

- (a) the licensee has made a material misstatement in the application for the licence or in any of the information or material submitted by the licensee to the registrar;
- (b) the licensee has committed acts of misrepresentation, fraud or dishonesty; or
- (c) the licensee is no longer a fit or proper person to carry on the business with respect to which the licence was issued.

Suspension or cancellation on termination of employment or business

15(1) The licence of a private investigator or security guard obtained by that person's employer is cancelled on the termination of the employment with respect to which it was issued.

(2) When a person who is employed as a private investigator or security guard ceases to be so employed, he or she shall surrender his or her licence immediately to his or her employer, who shall forward it to the registrar.

(3) Every person licensed to engage in the business of providing private investigators or security guards shall immediately forward to the registrar the licence together with the licences of his or her employees on the termination of that business.

(4) On the suspension or cancellation of the licence of a person licensed to engage in the business of providing private investigators or security guards, the licences of all employees of that person are suspended or cancelled, as the case may be.

(5) Where a licence is suspended or cancelled pursuant to this section, the registrar may require the person whose licence was suspended or cancelled to forward his or her licence to the registrar.

(6) Every person licensed to engage in the business of providing an armoured vehicle service shall immediately forward to the registrar the licence on termination of that business.

(7) Where a person does not forward a licence to the registrar in accordance with this section, the registrar or a person authorized by a registrar may seize the licence.

Right to be heard

16(1) Subject to subsections (2) to (4), the registrar shall not amend, suspend or cancel a licence until he or she has given the licensee an opportunity to be heard.

(2) If, in the opinion of the registrar, it is in the public interest to amend, suspend or cancel the licence immediately, the registrar may do so without giving the licensee an opportunity to be heard.

(3) Where the registrar amends, suspends or cancels a licence pursuant to subsection (2), the registrar shall give the person who held the licence an opportunity to be heard within 15 days of the amendment, suspension or cancellation.

(4) Where the registrar refuses to issue or renew a licence, or amends, suspends or cancels a licence, the registrar, on the request of the person whose licence or ability to obtain a licence is affected, shall give written reasons for his or her decision.

PART III Investigations and Inquiries

Investigation by registrar

17(1) Where the registrar considers it necessary, the registrar, or any person authorized in writing by the registrar, may investigate and inquire into any matter respecting:

- (a) the administration of this Act or the regulations; or
- (b) the provision of any security guard, private investigator or armoured vehicle service.

(2) For the purposes of an investigation, the registrar or a person authorized in writing by the registrar may inquire into and examine:

- (a) the business affairs of the person being investigated;
- (b) any records, negotiations, transactions, investigations, loans and borrowing of the person being investigated and any payments to, by or on behalf of, in relation to or in connection with the person; and
- (c) any property or assets of or things owned, acquired or alienated in whole or in part by the person being investigated or by any person acting on behalf of or as agent for the person being investigated.

(3) The person being investigated shall promptly provide detailed answers to all inquiries pertaining to the investigation by the registrar or a person authorized in writing by the registrar.

(4) Every person who is a private investigator or security guard or engaged in the business of providing private investigators, security guards or an armoured vehicle service shall:

- (a) cause his or her office to be open for inspection by the registrar or any person authorized in writing by the registrar at all reasonable times during normal business hours; and
- (b) cause all books, records, papers, documents and equipment of the person to be available for inspection by the registrar or any person authorized in writing by the registrar during the times described in clause (a).

(5) The registrar or person authorized in writing by the registrar shall not enter a private dwelling without a warrant issued pursuant to section 19 unless the occupant of the dwelling consents to the entry.

(6) If a private investigator or a security guard or a person engaged in the business of providing private investigators, security guards or an armoured vehicle service is the subject of an investigation pursuant to this section and that person is convicted of an offence against this Act based on information obtained pursuant to the investigation, the convicting court may order, in addition to any penalty imposed pursuant to this Act, that the person pay all or any costs of the investigation.

Inquiry by registrar into complaint against licensee

18(1) Where the registrar receives a written complaint from a member of the public respecting the business of any private investigator or security guard or a person licensed to engage in the business of providing private investigators, security guards or an armoured vehicle service, the registrar may conduct an investigation pursuant to section 17.

(2) For the purposes of investigating a complaint, the registrar, or any person authorized in writing by the registrar, may make any inspection, inquiry or investigation pursuant to section 17 that the registrar or person considers necessary.

(3) The registrar shall advise the complainant in writing of the results of an investigation conducted pursuant to this section.

Search warrant

19(1) A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant authorizing the registrar or person authorized by the registrar to enter or search any place or premises named in the warrant if the justice or judge is satisfied by information given under oath that there are reasonable grounds to believe that:

- (a) an offence against this Act or the regulations has been committed; and
- (b) there is evidence of the offence to be found at the place or premises proposed to be searched.

(2) With a warrant issued pursuant to subsection (1), the person named in the warrant may:

- (a) enter and search any place or premises named in the warrant;
- (b) require the production of and examine any books, records, papers or documents that the person named in the warrant believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;
- (c) subject to section 20, remove any books, records, papers or documents examined pursuant to this section for the purpose of making copies, if a receipt is given; and
- (d) seize and remove from any place or premises searched anything that may be evidence of an offence against this Act or the regulations.

(3) No person shall obstruct any person who is authorized to conduct a search pursuant to this section.

Copies of documents and return

20(1) If any books, records, papers or documents are inspected pursuant to section 17 or seized, examined or produced pursuant to section 19, the person conducting the investigation may make copies of those books, records, papers or documents.

- (2) The person conducting the investigation shall:
- (a) make those copies as soon as is reasonably possible; and
 - (b) promptly return the books, records, papers or documents from which the copies were made to:
 - (i) the place from which they were removed; or
 - (ii) any other place that may be agreed to by the person who furnished them or from whom they were seized and the person conducting the investigation.
- (3) A document certified by the person conducting the investigation to be a copy made pursuant to this section:
- (a) is admissible in evidence without proof of the office or signature of the person; and
 - (b) has the same probative force as the original document.

Obstruction

21 No person shall:

- (a) resist, obstruct, hinder or interfere with the person conducting the investigation; or
- (b) refuse to provide any record or information required by this Act to the person conducting the investigation when requested to do so.

Non-disclosure of information

22 Where information is received by the registrar, by the minister or by any person authorized or acting pursuant to this Act in connection with a record or return required pursuant to this Act or where information is received in the course of an inquiry or investigation authorized by this Act, the information received is not to be disclosed without the consent of the minister except for the purposes of an appeal pursuant to this Act.

PART IV
Prohibitions

Holding out prohibited

23 No licensee shall:

- (a) hold himself or herself out in any manner as performing or providing services or duties connected with the police;
- (b) include in any advertisement, notice or business card any reference to being licensed or bonded pursuant to this Act; or
- (c) engage in the business of providing private investigators, security guards or an armoured vehicle service in a name other than the name under which that person is licensed.

Licensee acting as member of police service

24(1) Subject to subsection (2), no licensee shall act as a member of a police service pursuant to an agreement with a council or board of police commissioners or by some other means.

(2) Subsection (1) does not apply to a licensee who has been appointed a special constable pursuant to *The Police Act, 1990* and whose duties are limited by that appointment to the enforcement of traffic or parking laws or municipal bylaws, or to the performance of a specific duty.

Prohibition of term “detective”

25 No person engaged in any business or employment, whether or not he or she is licensed pursuant to this Act, shall use the word “detective” in connection with any business or employment or hold himself or herself out in any manner as a detective.

Uniform and identification of security guard

26(1) No security guard shall wear a uniform unless it is approved by the registrar.

(2) No person acting as a security guard shall have on his or her uniform any identification containing the word “police”.

(3) Every security guard shall personally carry his or her licence while on duty and shall produce it for inspection at the request of any person.

Identification of private investigator

27(1) No person acting as a private investigator shall have in his or her possession or display any badge, card or other identification or evidence of authority except:

- (a) his or her licence; and
- (b) a business card that does not contain any reference to licensing or bonding pursuant to this Act.

(2) Every private investigator shall personally carry his or her licence while on duty and shall produce it for inspection at the request of any person.

Licensee not to act as collector

28 Notwithstanding *The Collection Agents Act*, no licensee, for hire or reward, shall:

- (a) act as a collector of accounts;
- (b) hold himself or herself out as a collector of accounts; or
- (c) advertise as a collector of accounts.

Licensee to comply with terms

29 No licensee shall fail to comply with the terms and conditions of his or her licence.

Licence not to be given to other person

30 No licensee shall give or make available to any other person his or her licence or a facsimile of that licence.

Employee required to be licensed

31 No person engaged in the business of providing private investigators or security guards shall employ a person to perform the duties of a private investigator or security guard who is not the holder of a licence.

Age requirements

32(1) No person may be licensed as a private investigator or security guard unless he or she has reached the age of majority.

(2) No person may be employed in an armoured vehicle service unless he or she has reached the age of majority.

PART V
General**Appeal of decision of registrar**

33 Where a person's licence or application for a licence is affected by a decision of the registrar, that person may appeal to the commission in the prescribed manner within 30 days from the date of notice of the decision.

Hearing of appeal

34 On an appeal to the commission, the commission shall hear and determine the appeal by:

- (a) holding a hearing, where the appellant's application for a licence was affected by a decision of the registrar; or
- (b) holding a new hearing, where the appellant's licence was affected by a decision of the registrar.

Commission may make order

35(1) After hearing an appeal, the commission may make one or more of the following orders:

- (a) an order dismissing the appeal;
 - (b) an order allowing the appeal;
 - (c) an order allowing the appeal subject to terms specified in the order;
 - (d) an order varying the decision appealed;
 - (e) an order referring the matter back to the registrar for further consideration and a decision;
 - (f) an order awarding costs of the appeal;
 - (g) any other order that the commission considers appropriate.
- (2) In addition to an order made pursuant to subsection (1), the commission may order:
- (a) the repayment to the registrar within a fixed period of the costs of the investigation and any hearing, including the expenses of the commission and costs of any legal services and witnesses; and
 - (b) where the person ordered to make payment in accordance with clause (a) fails to make payment, that the person's licence is suspended or cancelled.

Appeal of decision of commission

36(1) Any person who is aggrieved by an order of the commission may appeal the order, on a question of law only, to a judge of the Court of Queen's Bench.

(2) An appeal pursuant to this section must be made within 30 days from the date of notice of the order.

(3) Subject to subsection (1), every decision or order of the commission is final, and no order, decision or proceeding of the commission shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari*, *mandamus* or any other process or proceeding in any court.

Stay of decision or order

37(1) Subject to subsection (2), the commencement of an appeal pursuant to section 33 or 36 does not stay the effect of the decision or order appealed from.

(2) The appellant may apply to the commission or the Court of Queen's Bench, as the case may be, for a stay of the decision or order pending the disposition of the appeal.

Licence to be displayed

38 A person licensed to engage in the business of providing private investigators, security guards or an armoured vehicle service shall ensure that the person's licence is at all times displayed in the person's place of business.

Period licence in effect

39 Licences are to be issued for the prescribed periods.

Proof of licence

40 A certificate signed by the registrar certifying that a person is or is not licensed or that the licence of a person was amended, suspended, cancelled or reinstated at a particular time is, without proof of the office or signature of the registrar, admissible, in the absence of evidence to the contrary, as proof of the facts stated in the certificate in any action, proceeding or prosecution.

Incident report

41(1) A private investigator, security guard or a person engaged in the business of providing private investigators, security guards or an armoured vehicle service shall advise the registrar in the prescribed form of any incident involving a member of the public and a licensee or employee of a licensee that involves the use of force or any other unusual intervention.

(2) The registrar may suspend, cancel or refuse to renew a licence where a licensee fails to advise the registrar pursuant to subsection (1).

Notification to persons affected by decision of registrar

42 The registrar shall give notice of every direction, decision, order or ruling of the registrar to any person who, in the opinion of the registrar, is affected by that direction, decision, order or ruling.

Offences and penalties

43(1) Every person who contravenes a provision of this Act, the regulations, or an order or other direction made pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction:

- (a) in the case of a person other than a corporation:
 - (i) for a first offence, to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year or to both; and
 - (ii) for a second or subsequent offence, to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year or to both; and
- (b) in the case of a corporation:
 - (i) for a first offence, to a fine of not more than \$10,000; and
 - (ii) for a second or subsequent offence, to a fine of not more than \$50,000.

(2) Any officer, director or agent of a corporation who directed, authorized or participated in an act or omission by a corporation that would constitute an offence by that corporation is guilty of that offence, whether or not the corporation has been prosecuted or convicted.

Limitation of actions

44 Proceedings to prosecute a person for an offence pursuant to this Act must be commenced within two years after the occurrence of the facts on which the proceedings are based.

Immunity

45 No action or proceeding lies or shall be instituted against the minister, the registrar, or any person or employee authorized or acting pursuant to this Act or the regulations, where the minister, registrar or person or employee is acting pursuant to the authority of this Act or the regulations, for any loss or damage suffered by reason of anything in good faith done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty or responsibility imposed by this Act or the regulations.

False or misleading advertisement

46 Where, in the opinion of the registrar, a licensee makes false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the registrar may order that licensee to stop using that material immediately.

Restraining order

47(1) The registrar or any person authorized by the registrar may apply to the Court of Queen's Bench for a restraining order where a person is, without a licence or while a licence is suspended or cancelled:

- (a) acting as a private investigator or security guard; or
- (b) engaging in the business of providing private investigators, security guards or an armoured vehicle service.

(2) In an application pursuant to subsection (1), the registrar or any person authorized by the registrar may request an order restraining the person and any employee or agent of the person from acting as a private investigator or security guard or from engaging in the business of providing private investigators, security guards or an armoured vehicle service until the person is licensed or the suspension is terminated.

Recovery of money from unlicensed person

48(1) In this section, "**unlicensed person**" means:

- (a) a person without a licence who holds himself or herself out as, or acts as, a private investigator or security guard; or
- (b) a person without a licence who holds himself or herself out as being engaged in the business of or engages in the business of providing private investigators, security guards or an armoured vehicle service.

(2) A person who enters into an agreement for services with an unlicensed person may recover any money paid pursuant to the agreement in a court of competent jurisdiction.

Advisory committee

49 The minister may appoint an advisory committee for the purpose of advising the registrar and the minister on the operation and application of this Act and any regulations made pursuant to this Act.

Service of notice or documents

50(1) Any notice required by this Act or the regulations to be given or served is, unless otherwise provided for, to be served personally or mailed by registered mail to the last known address of the person being served.

(2) A document served by registered mail is deemed to have been received on the seventh day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of his or her own, he or she did not receive the document or that he or she received it at a later date.

Regulations

51 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) exempting any person or class of persons from this Act or from any provision of this Act;
- (c) prescribing the forms and other documents required pursuant to this Act and providing for their use;
- (d) respecting the issuing, renewing, amending, suspending and cancelling of licences or categories of licences, including temporary licences;
- (e) respecting information to be provided to the registrar by a licensee or an applicant for a licence;
- (f) requiring the payment of fees for the issuance or renewal of licences and prescribing amounts and terms of payment;
- (g) prescribing the amounts and form of bonds or other forms of security required by the registrar to be furnished pursuant to this Act, the terms of forfeiture of bonds or other forms of security, the terms on which bonds or other forms of security may be cancelled, the period for which the bonds or other forms of security subsist, and respecting all matters pertaining to forfeiture;
- (h) prescribing a code of ethical conduct for persons licensed pursuant to this Act;
- (i) prescribing the minimum standards, qualifications and training required to obtain a licence to act as a private investigator or security guard or a licence to engage in the business of providing private investigators, security guards or an armoured vehicle service;
- (j) requiring the keeping of books and records and the furnishing of information and returns by persons licensed pursuant to this Act;
- (k) prescribing the uniforms, badges and insignia that the registrar may approve for wearing by security guards;
- (l) prescribing the equipment that may be used by or that must be provided to persons licensed pursuant to this Act;
- (m) prescribing any new terms and conditions or modifying or removing or substituting terms and conditions of a licence issued pursuant to *The Private Investigators and Security Guards Act*;
- (n) prescribing any matter or thing that is authorized or required by this Act to be prescribed in the regulations;

- (o) prescribing the rules and procedures respecting any appeal conducted pursuant to this Act;
- (p) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

PART VI
Repeal, Transitional and Coming into Force

R.S.S. 1978, c.P-26 repealed

52 *The Private Investigators and Security Guards Act* is repealed.

Transitional

53(1) Subject to subsection (2), every licence issued pursuant to *The Private Investigators and Security Guards Act* that was in force on the day before the coming into force of this Act is continued in force pursuant to this Act and may be dealt with pursuant to this Act as if it were issued pursuant to this Act.

(2) Notwithstanding the terms and conditions of any licence issued pursuant to *The Private Investigators and Security Guards Act* before the coming into force of this Act, where authorized by the regulations, the registrar may impose new terms and conditions, or modify or remove terms and conditions or substitute terms and conditions to which the licence is subject.

Coming into force

54 This Act comes into force on proclamation.