

# **Jammu and Kashmir Private Security Agencies (Regulation) Act, 2015**

JAMMU & KASHMIR

India

## **Jammu and Kashmir Private Security Agencies (Regulation) Act, 2015**

### **Act 9 of 2015**

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Jammu and Kashmir Private Security Agencies (Regulation) Act, 2015(Act No. 9 of 2015)[Dated 28th of October, 2015.]An Act to provide for the regulation of private security agencies operating in the State of Jammu and Kashmir and for the matters connected therewith or incident thereto.Be it enacted by the State Legislature in the Sixty-sixth Year of the Republic of India as follows :-

### **1. Short title and commencement.**

(1)This Act may be called the Jammu and Kashmir Private Security Agencies (Regulation) Act, 2015.(2)It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

### **2. Definitions.**

(1)In this Act, unless the context otherwise requires,-(a)"Act" means the Jammu and Kashmir Private Security Agencies (Regulation) Act, 2015 ;(b)"controlling authority" means the controlling authority appointed under sub-section (1) of section 3 ;(c)"Government" means the Government of Jammu and Kashmir ;(d)"licence" means a licence granted under section 6 of the Act ;(e)"notification" means a notification published in the Government Gazette ;(f)"prescribed" means prescribed by rules made under this Act ;(g)"private security" means security provided by a person or agency, other than a Government agency, department or organization, to protect or guard any person or property or both ;(h)"private security agency" means a person or body of persons, other than a Government agency, department or organization, engaged in the business of providing private security services including training to private security guards or their supervision or providing private security guards to any industrial or business undertaking or a company or any other person or property ;(i)"private security guard" means a person providing private security, with

or without arms, to another person or property or both and includes a supervisor ;(j)"Schedule" means the Schedule appended to the Act ;(k)"State" means the State of Jammu and Kashmir.

### **3. Appointment of controlling authority.**

(1)The Government shall, by notification, designate an officer not below the rank of Special Secretary to the Government to be the controlling authority for the purposes of the Act.(2)The Government may, for efficient discharge of functions by the controlling authority, provide it with such other officers and staff as the Government considers necessary.

### **4. Licence.**

(1)No person shall carry on or commence the business of private security agency, unless he holds a licence issued under the Act :Provided that any person carrying on the business of private security agency, immediately before the commencement of the Act, may continue to do so for a period not exceeding six months from the date of such commencement and if he has made an application for such licence within the said period of six months, he may continue it for a further period of three months or till the disposal of such application whichever be earlier.(2)An application for issuance of a licence under the Act shall be considered only after due verification of the character and antecedents of the applicant.

### **5. Persons not entitled for licence.**

(1)A person shall not be entitled for a licence under this Act, if he-(a)has been convicted of an offence of fraud or misfeasance committed by him in connection with promotion, formation or management of a company ;(b)is an undischarged insolvent ;(c)has been convicted by a competent court for an offence punishable with imprisonment of not less than two years ;(d)is keeping links with any organization or association which is banned under any law on account of their activities which pose threat to security of the State, national security or public order or there is information about such a person indulging in activities which are prejudicial to national security or public order ; or the security of the State ;(e)has been dismissed or removed from Government service on grounds of misconduct or moral turpitude ; or(f)is not a permanent resident of the State.(2)A company, firm or association of persons shall not be entitled for a licence under the Act, unless-(a)it is registered in the State of Jammu and Kashmir under the law in force in the State for such registration ; and(b)its proprietor or majority of its shareholders or partner or its director is (are) permanent resident(s) of the State.

### **6. Application for grant of licence.**

(1)An application for grant of licence to a private security agency shall be made to the controlling authority in such form as may be prescribed.(2)Every application under sub-section (1) shall be accompanied by-(a)an affidavit in relation to the provisions of section 5 ; (b) an undertaking to ensure the availability of training facilities for its private security guards and supervisors required

under sub-section (2) of section 8 ;(c)information about fulfillment of conditions laid down under section 10 ;(d)information regarding cases registered in a police station or pending in a court of law involving the applicant ; and(e)a fee of rupees-(i)five thousand, if the private security agency is operating in one district of the State ;(ii)ten thousand, if the agency is operating in more than one but up to five districts of the State ; and(iii)twenty thousand, if it is operating in the whole State.(3)On receipt of an application under sub-section (1), the controlling authority may, after making such inquiries as it considers necessary and obtaining no objection certificate from the concerned police authority, by order in writing, either grant a licence or refuse to grant the same within a period of sixty days from the date of receipt of application with complete particulars and the prescribed fee :Provided that no order of refusal shall be made unless-(a)the applicant has been given a reasonable opportunity of being heard ; and(b)the grounds on which licence is refused are mentioned in the order.(4)A licence granted under this section-(a)shall be valid for a period of three years unless the same is cancelled under sub-section (1) of section 12 ;(b)may be renewed from time to time after the expiry of three years, for a further period of three years on payment of such fee as may be prescribed but which shall not be less than the fees specified under clause (e) of sub-section (2) of section 6 ; and(c)shall be subject to such conditions as may be prescribed.

## **7. Renewal of licence.**

(1)An application for renewal of licence shall be made to the controlling authority, not less than sixty days before the date of expiry of the period of validity thereof, in such form as may be prescribed and shall be accompanied by the requisite fee and other documents required under sections 5, 6 and 10 of the Act.(2)The controlling authority shall pass an order on application for renewal of licence within sixty days from the date of receipt of application complete in all respects.(3)On receipt of an application under sub-section (1), the controlling authority may, after making such inquiries as he considers necessary and by order in writing, renew the licence or refuse to renew the same :Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

## **8. Conditions for commencement of operation and engagement of supervisors.**

(1)A private security agency shall, within six months of obtaining the licence, commence its activities.(2)The private security agency shall ensure imparting of such training and skills to its private security guards and supervisors as may be prescribed :Provided that the person carrying on the business of private security agency, before the commencement of the Act, shall ensure the required training to its security guards and supervisors within a period of one year from the date of such commencement.(3)Every private security agency shall, within sixty days from the date of issue of the licence, employ such number of supervisors, as may be prescribed.(4)A private security agency shall not employ or engage a person as a supervisor unless he fulfils the conditions specified in sub-section (1) of section 9.

## **9. Eligibility to be a private security guard.**

(1)A private security agency shall not employ or engage any person as a private security guard unless he-(a)is a permanent resident of the State ;(b)has completed eighteen years of age but has not attained the age of sixty five years ;(c)satisfies the agency about his character and antecedents in such manner as may be prescribed ;(d)has completed the prescribed security training successfully or completes the same within one year of his engagement ;(e)fulfils such physical standards as may be prescribed ; and(f)satisfies such other conditions as may be prescribed.(2)No person who has been convicted by a competent court or who has been dismissed or removed on grounds of misconduct or moral turpitude while serving in any of the armed forces of the Union, State Police, Organizations, Central or State Governments or in any private security agency shall be employed or engaged as a private security guard or supervisor.(3)A private security agency may, while employing a person as a private security guard, give preference to a person who has served as a member in one or more of the following, namely :-(i)Army ;(ii)Navy ;(iii)Air Force ;(iv)Any other armed forces of the Union ;(v)Police, including armed constabularies of the State, SPO's ; and(vi)Home Guards.

## **10. Conditions of licence.**

- The Government may, by notification, prescribe the conditions for grant of licence under the Act and such conditions shall include requirements as to the training which the licensee is to undergo, details of the person or persons forming the agency, obligation as to the information to be provided from time to time to the controlling authority regarding any change in their address, change of management and also about any criminal charge made against them in the course of their performance of duties of the private security agency or as the case may be, a private security guard employed or engaged by them.

## **11. Licence to be exhibited.**

- A private security agency shall exhibit its licence or copy thereof in a conspicuous place of its business.

## **12. Cancellation and suspension of licence.**

(1)The controlling authority may cancel any licence on any one or more of the following grounds, namely :-(a)that the licence has been obtained by misrepresentation or suppression of material facts ;(b)that the licence holder has used false documents or photographs ;(c)that the licence holder has violated the provisions of the Act or the rules made thereunder or any of the conditions of the licence ;(d)that the licence holder has misused information obtained by him during the discharge of his duties as the private security agency to any industrial or business undertaking or a company or any other person ;(e)that the licence holder by using any letter head, advertisement or any other printed matter or in any other manner represented that the private security agency is an instrumentality of the Government or such agency is or has been using a name different from that for which licence has been granted ;(f)that the licence holder is or has been impersonating or

permitting or aiding or abetting any body to impersonate as a public servant ;(g)that the private security agency had failed to commence its activities or to engage a supervisor within the specified time period ;(h)that the licence holder is or has wilfully failed or refused to render the services agreed to any person ;(i)that the licence holder has done any act which is in violation of a court order or an order of a lawful authority or is or has been advising, encouraging or assisting any person to violate any such order ;(j)that the licence holder has violated the provisions of the laws mentioned in the schedule which may be modified by the Government from time to time by notification in the Government Gazette ;(k)that there have been repeated instances when the private security guard or guards provided by the private security agency-(i)failed to provide private security or were guilty of gross negligence in not providing such security ;(ii)committed a breach of trust or misappropriated the property or a part thereof which they were supposed to protect ;(iii)were found habitually drunk or indisciplined ;(iv)were found to be involved in committing crimes ; or(v)had connived or abetted a crime against the person or property placed under their charge ; or(l)that the licence holder has done any act which poses a threat to national security or the security of the State, or did not provide assistance to the police or other authority in the discharge of its duties or acted in a manner prejudicial to security of the State or public order or law and order.(2)Where the controlling authority, for reasons to be recorded in writing, is satisfied that pending the question of cancellation of licence on any of the grounds mentioned in sub-section (1), it is necessary to do so, it may, by order in writing, suspend the operation of the licence for such period not exceeding thirty days as may be specified in the order and require the licence holder to show cause, within fifteen days from the date of issue of such order, as to why the suspension of the licence should not be extended till the determination of the question of cancellation.(3)Every order of suspension or cancellation of a licence shall be in writing and shall specify the reasons for such suspension or cancellation and a copy thereof shall be communicated to the person affected.(4)No order of cancellation of licence under sub-section (1) shall be made unless the person concerned has been given a reasonable opportunity of being heard.

### **13. Appeals.**

(1)Any person aggrieved by an order of the controlling authority refusing the licence under sub-section (3) of section 6 or renewal under sub-section (3) of section 7 or order of suspension of licence under sub-section (2) of section 12 or cancellation of licence under sub-section (1) of that section, may prefer an appeal against that order to the Administrative Secretary of the Home Department, within a period of sixty days of the date of such order :Provided that an appeal may be admitted after the expiry of the said period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause not for preferring the appeal within that period.(2)Every appeal under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a certified copy of the order appealed against.(3)Before disposing of an appeal, the appellate authority shall give the appellant a reasonable opportunity of being heard.

### **14. Register to be maintained by a private security agency.**

(1)A private security agency shall maintain a register containing-(a)the names and addresses of the persons managing the private security agency ;(b)the names, addresses, photographs and salaries of

the private security guards and supervisors under its control including the name and particulars of the Scheduled Bank through which such salary is disbursed ;(c)the names and addresses of the persons whom it has provided private security guards or services ; and(d)such other particulars as may be prescribed.(2)The controlling authority may call for such information as it considers necessary from any private security agency, supervisor or private security guard to ensure due compliance of the Act.

## **15. Inspection of licensee, etc.**

- The controlling authority or any other officer authorized by it in this behalf may at any reasonable time, enter the premises of the private security agency and inspect and examine the place of business, the records, accounts and other documents connected with the licence and may take copy of any document.

## **16. Issue of photo identity card.**

(1)A private security guard and supervisor shall be issued a photo identity card by the private security agency employing or engaging the guard.(2)The photo identity card under sub-section (1) shall be issued in such form as may be prescribed.(3)A private security guard or supervisor shall carry on his person the photo identity card issued under sub-section (1) and shall produce it on demand for inspection by the controlling authority, a police officer or any other officer authorized by the controlling authority in this behalf.

## **17. Disclosure of information to unauthorized persons.**

(1)Any person who is or has been employed or engaged as a private security guard or supervisor by any private security agency shall not divulge to anyone other than the employer, or in such manner and to such person as the employer directs, any information acquired by him during such employment with respect to the work which he has been assigned by such employer, except such disclosure as may be required under the Act or in connection with any inquiry or investigation by the police or as may be required by any authority or process of law.(2)All private security guards and supervisors of a private security agency shall render necessary assistance to the police or to any other authority in the process of any investigation pertaining to the activities of that agency.(3)If violation of any law is noticed by any private security guard or supervisor during the course of discharge of his duties, he shall bring it to the notice of his superior, who in turn shall inform the police either through his employer or agency or on his own at the earliest.

## **18. Delegation.**

- The Government may, by notification, direct that any power or function, except the powers to make rules under section 26, which may be exercised or performed by it, or which may be exercised or performed by the controlling authority under the Act, may, in relation to such matter and subject to such conditions, as may be specified in the notification, be also exercised or performed by such

officer or authority subordinate to the Government or to the controlling authority, as may be specified in such notification.

## **19. Punishment for contravention of certain provisions.**

(1) Any person who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to one year, or with fine of not less than ten thousands rupees but which may extend to twenty-five thousand rupees, or with both. (2) Any person or private security agency who contravenes the provisions of sections 8, 9 or 11 of the Act, shall be punishable with a fine of not less than five thousand rupees but which may extend to twenty-five thousand rupees, in addition to suspension or cancellation of the licence.

## **20. Penalty for unauthorized use of certain uniforms.**

- If any private security guard or supervisor wears the uniform of army, air force, navy or any other armed forces of the Union or police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he and the proprietor of the private security agency shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

## **21. Offences by companies.**

(1) Where an offence under the Act is committed by a company, every person who at the time of commission of the offence was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished under the Act : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under the Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes of this section-(a) "company" means any body corporate and includes a firm or other association of individuals ; and (b) "director", in relation to a firm, means a partner in the firm.

## **22. Offences by whom triable.**

- Offences punishable under the Act shall be triable by a Judicial Magistrate of the First Class having jurisdiction in the place where the offence is committed.

### **23. Offences to be cognizable.**

- Every offence under this Act shall be cognizable within the meaning of the Code of Criminal Procedure, Samvat 1989.

### **24. Previous sanction of the controlling authority necessary in certain cases.**

- No prosecution shall be instituted against any person in respect of offences under sections 4, 8, 9 and 21, without the previous sanction of the controlling authority.

### **25. Indemnity.**

- No suit, prosecution or other legal proceeding shall lie against the controlling authority or any other officer authorized by it in respect of anything done or intended to be done in good faith under the Act.

### **26. Power of Government to make rules.**

(1)The Government may, by notification in the Government Gazette, make rules for carrying out the provisions of the Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)the form of an application for grant of licence under sub-section (1) of section 6 ;(b)the form in which the licence to be granted under sub-section (4) of section 6 and conditions subject to which such licence to be granted under section 10 ;(c)the form of an application for renewal of licence under sub-section (1) of section 7 ;(d)the number of supervisors to be employed under sub-section (3) of section 8 ;(e)the procedure for verification of character and antecedents under clause (c) of sub-section (1) of section 9 ;(f)the type of training under clause (d) of sub-section (1) of section 9 ;(g)the physical standard under clause (e) of sub-section (1) of section 9 ;(h)other conditions under clause (f) of sub-section (1) of section 9 ;(i)the form under sub-section (2) of section 13 for preferring an appeal ;(j)particulars to be maintained in a register under subsection (1) of section 14 ;(k)the form in which photo identity card under sub-section (2) of section 16 be issued ;(l)any other matter which is required to be, or may be, prescribed.

### **27. Repeal and saving.**

(1)The Jammu and Kashmir Private Security Agencies (Regulation) Ordinance, 2015 (Ordinance No. II of 2015) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken or any order issued under the aforesaid Ordinance, shall be deemed to have been done, taken or issued under the corresponding provisions of this Act.



## Schedule

[See section 12(1)(J)](1)The Payment of Wages Act, 1936 (Central Act No. 4 of 1936).(2)The Industrial Disputes Act, 1947 (Central Act No. 14 of 1947).(3)The Minimum Wages Act, 1948 (Central Act No. 11 of 1948).(4)The Jammu and Kashmir Employees Provident Funds (and Miscellaneous Provisions) Act, 1961 (Act No. XV of 1961).(5)The Payment of Bonus Act, 1965 (Central Act No. 21 of 1965).(6)The Contract Labour (Regulation and Abolition) Act, 1970 (Central Act No. 37 of 1970).(7)The Payment of Gratuity Act, 1972 (Central Act No. 39 of 1972).(8)The Equal Remuneration Act, 1976 (Central Act No. 25 of 1976).(9)The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (Central Act No. 30 of 1979).