



SECURITY SERVICES AND INVESTIGATORS LEGISLATION:

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THE REQUIREMENTS IMPOSED ON BUSINESSES EMPLOYING LOSS PREVENTION AND SECURITY PERSONNEL

1. Introduction

Individual workers, businesses, and other entities involved in security and investigative activities are governed by a legislative framework (the “*Legislation*”) comprised of the *Security Services and Investigators Act* (the “*Act*”)¹, the *Security Services and Investigators Regulation*², and the *Security Services and Investigators (Ministerial) Regulation*.³ A Policy Manual published by the Ministry of Justice and Solicitor General provides guidance on how to comply with this *Legislation*.⁴

The following security and investigative activities are governed by the *Legislation*:⁵

- Security services
- Loss prevention
- Investigation
- Guard dog handling
- Locksmithing
- Automotive lock bypass
- Security alarm response

This paper provides an overview of the requirements that the *Legislation* imposes on businesses. Rules applying to individual workers, and to activities other than loss prevention or security services, have largely been omitted.

2. Licensing Requirements

Individual workers, businesses, and other entities that are involved in the activities listed above are generally required to apply for, and obtain, a licence under the *Legislation*. Licensed businesses are referred to as “business licensees”, and licensed individuals are referred to as “individual licensees”.⁶

¹ *Security Services and Investigators Act*, SA 2008, c S-4.7 [Act].

² *Security Services and Investigators Regulation*, Alta Reg 52/2010 [Regulation].

³ *Security Services and Investigators (Ministerial) Regulation*, Alta Reg 55/2010 [Ministerial Regulation].

⁴ Alberta Justice and Solicitor General, *Security Services and Investigators Act: Security Programs Policy Manual*, version 3.0 (June 2010 (amended June 2012)) at 1.2 [Policy Manual].

⁵ Act, *supra* note 1 ss 2-7; Ministerial Regulation, *supra* note 3 ss 1-4.

⁶ Act, *supra* note 1 ss 1(c), 1(f).

Most often, a business will be required to obtain a business license in order to either provide individual security or investigative workers to others on a contract basis (Contract Business), or to employ such workers in-house (Registered-User Business).⁷ The *Legislation* does, however, exempt certain groups from licensing.⁸ For instance, a business that obtains security services from a contract company, and does not employ its own security workers in-house, is not required to hold a licence.⁹

The *Legislation* and Policy Manual set out detailed rules and procedures applicable to the licence application and renewal process.¹⁰ Simply put, however, a licence may be obtained by submitting the *Business License Application or Renewal Form* available on the Security Programs website, along with the additional documents listed therein.

The following are additional rules related to licensing that businesses should be aware of:

- A business licence must be displayed in a conspicuous location in each office of the business, and anywhere else in Alberta where the business is carrying on its licensed services.¹¹
- A business licence must be returned to the Registrar when it is cancelled or suspended.¹²
- Licences are not transferrable.¹³
- A business that employs an individual who is completing a required training program must apply for a training licence on that individual's behalf.¹⁴
- Businesses cannot employ an individual to perform security or investigative work unless that individual is licensed.¹⁵
- A business may not promote security services that it is not licensed to provide.¹⁶

3. Code of Conduct

Every business licensee must establish and maintain a code of conduct for individual licensees that it employs.¹⁷

This code of conduct must contain provisions requiring individual licensees to:¹⁸

- Act with honesty and integrity,
- Comply with all federal, provincial and municipal laws,
- Respect and use all property and equipment in accordance with the terms and conditions of the individual licensee's licence,
- Comply with the terms and conditions of the individual's licence, and
- Comply with the business licensee's code of conduct.

⁷ *Act*, supra note 1 s 8; *Policy Manual*, supra note 4 at 3.2.

⁸ See *Act*, supra note 1 s 10; *regulation*, supra note 2 s 2.

⁹ *Act*, supra note 1 s 10(e).

¹⁰ See *Act*, supra note 1 ss 13-16, 22, 23; *Ministerial Regulation*, supra note 3 ss 5-13, 15-17, Schedule 1, Schedule 2; *Policy Manual*, supra note 4 at 3.6-3.8.

¹¹ *Act*, supra note 1 s 31(1).

¹² *Ibid* s 21.

¹³ *Ibid* s 17.

¹⁴ *Ministerial Regulation*, supra note 3 s 15(1).

¹⁵ *Act*, supra note 1 s 38.

¹⁶ *Regulation*, supra note 2 s 13.

¹⁷ *Ministerial Regulation*, supra note 3 s 20(1).

¹⁸ *Ibid* s 20(2).

The code of conduct must also contain provisions prohibiting individual licensees from:¹⁹

- Engaging in disorderly or inappropriate conduct,
- Withholding or suppressing information, complaints or reports about any other licensee,
- Making or signing false, misleading or inaccurate statements,
- Consuming alcohol while on duty, except in the performance of the individual licensee's duties,
- Consuming controlled drugs and controlled substances under the *Controlled Drugs and Substances Act* (Canada), and
- Possessing or consuming alcohol, except in the performance of the individual licensee's duties.

The code of conduct must also contain provisions respecting when confidentiality must be maintained.²⁰

4. Complaint Related Requirements

The *Legislation* permits anyone to make a written complaint about an individual worker to that worker's employer within 90 days of the events giving rise to the complaint.²¹ Upon receipt of such a complaint, the employer must satisfy the following obligations.

*A. An Employer must Investigate and Dispose of a Complaint Within 90 Days of Receiving It.*²²

- The investigation must be carried out in accordance with the complaint management process submitted with the employer's business licence application.²³ An employer may choose not to investigate if the complaint is frivolous, vexatious, or made in bad faith, or if, having regard to all the circumstances, no investigation is necessary.^{24*}
- The employer must dispose of the complaint by deciding that the complaint is unfounded, unsubstantiated, has merit in whole or in part, or is frivolous, vexatious or made in bad faith.²⁵

B. Acknowledgement, Notification, and Reporting Requirements

- An employer must, within 30 days of receiving a complaint, acknowledge receipt to the complainant.²⁶
- An employer must, where the Registrar deems it appropriate**, inform the individual worker in question about the complaint.²⁷

¹⁹ *Ibid.*

²⁰ *Ministerial Regulation, supra* note 3 s 20(2)(i).

²¹ *Act, supra* note 1 s 24.

²² *Ibid* ss 25(1), 25(4).

²³ *Ministerial Regulation, supra* note 3 s 27(2).

²⁴ *Act, supra* note 1 s 25(2).

* See Part 11.5 of the Policy Manual for further information.

²⁵ *Ministerial Regulation, supra* note 3 s 28(1).

²⁶ *Ibid* s 26.

** See Part 11.2 of the Policy Manual for further information.

²⁷ *Ministerial Regulation, supra* note 3 ss 26, 27(1).

- If an employer decides not to investigate a complaint, it must notify the complainant of this, in writing, with reasons, within 90 days of receiving the complaint.²⁸ It must also notify the complainant of his or her right to have this decision reviewed by the Registrar.²⁹
- Within 90 days of receiving a complaint, an employer must notify the complainant, the Registrar, and the individual worker in question, in writing, of:³⁰
 - The disposition of the complaint,
 - The reasons for the disposition, and
 - The right of the complainant to have the employer's disposition reviewed by the Registrar.

The Policy Manual suggests that anonymous complaints do not generally constitute complaints under the *Legislation*, and that criminal allegations must be reported to the police.^{31***}

5. **Reporting Requirements**

A business licensee must report the following incidents to the Registrar within 24 hours:

- The use of a weapon by an individual licensee employed or engaged for services by the business licensee in the course of the individual licensee's duties.³²
- Any allegation that an individual licensee employed or engaged for services by the business licensee has committed a criminal offence.³³
- A criminal charge or any conviction of a criminal offence against the business licensee or an employee of the business licensee.³⁴
- Any incident allegedly involving a breach by a licensee of the code of conduct established pursuant to the regulations.³⁵ See above for what this code of conduct must maintain.
- Any incident involving serious injury to or the death of an individual licensee employed or engaged for services by the business licensee.³⁶
- Any incident involving serious injury to or the death of another person alleged to have resulted from the actions of an individual licensee employed or engaged for services by the business licensee.³⁷

²⁸ *Act, supra* note 1 s 25(3).

²⁹ *Ministerial Regulation, supra* note 3 s 28(3).

³⁰ *Ibid* s 25(4).

³¹ *Policy Manual, supra* note 4 at 11.3, 11.4.

*** See Parts 11.3 and 11.4 of the Policy Manual for further information.

³² *Act, supra* note 1 19(d); *Regulation, supra* note 2 s 4(1).

³³ *Act, supra* note 1 s 19(e); *Regulation, supra* note 2 s 4(1).

³⁴ *Act, supra* note 1 s 19(f); *Regulation, supra* note 2 s 4(1).

³⁵ *Act, supra* note 1 s 19(g); *Regulation, supra* note 2 s 4(1).

³⁶ *Act, supra* note 1 s 19(h); *Regulation, supra* note 2 s 4(1).

³⁷ *Act, supra* note 1 s 19(i); *Regulation, supra* note 2 s 4(1).

- Every instance where a guard dog attacks, bites, or injures an individual.³⁸

A business licensee must report the following to the Registrar within 30 days:

- A change of address of the principal office for the business.³⁹
- A change in any information provided to the Registrar when the application for the business licence or the renewal of the business licence was made.⁴⁰
- The names of the individual licensees employed or engaged for services by the business licensee.⁴¹
- When an individual licensee is no longer employed by the business licensee and the details of the termination of employment⁴²

The *Legislation* also requires a business licensee to report any information “...requested by the Registrar”.⁴³ This gives the Registrar significant power to compel reporting.

The *Legislation* requires that the foregoing reports be made in writing.⁴⁴ The Policy Manual, however, suggests that the appropriate approved form, or a suitable alternative, must be used.⁴⁵

The Policy Manual adds to a number of the foregoing reporting requirements and, in some cases, appears to have created new ones.⁴⁶ It unclear, however, whether there is legislative authority for all of these added requirements.

6. **Record Keeping Requirements**

The *Legislation* requires business licensees to maintain records of the following:

- A) *Incidents in which an individual licensee employed by the business used force*:⁴⁷ The Policy Manual suggests that it is use of “material force”, defined as an action that goes beyond a compliant arrest or removal from the premises, that must be recorded.⁴⁸
- B) *Information that is reportable to the Registrar under Section 19 of the Act*:⁴⁹ See list above.
- C) *Information about individual licensees employed by the business*:

³⁸ *Regulation, supra* note 2 s 4(2).

³⁹ *Act, supra* note 1 s 19(a); *Regulation, supra* note 2 s 4(3).

⁴⁰ *Act, supra* note 1 s 19(b); *Regulation, supra* note 2 s 4(3).

⁴¹ *Act, supra* note 1 s 19(c); *Ministerial Regulation* note 3 s 12(1)(a); *Regulation, supra* note 2 s 4(3).

⁴² *Ministerial Regulation, supra* note 3 s 12(1)(b); *Regulation, supra* note 2 s 4(4).

⁴³ *Act, supra* note 1 s 19(j).

⁴⁴ *Act, supra* note 1 s 19; *Regulation, supra* note 2 s 4.

⁴⁵ *Policy Manual, supra* note 4 at 6.3.

⁴⁶ See *Policy Manual, supra* note 4 at 4.1, 6.3.2, 6.5.3, 6.5.6, 6.5.8.

⁴⁷ *Act, supra* note 1 s 32(c).

⁴⁸ *Policy Manual, supra* note 4 at 6.2.

⁴⁹ *Regulation, supra* note 2 ss 5, 12(1)(b).

- The names and addresses of everyone acting for the business in carrying out its licensed security or investigative activities,⁵⁰ and
- The locations where each individual licensee employed by the business was employed, including where they provided security services;”⁵¹

D) *Client files*: a business licensee must keep copies of agreements entered into with clients, and invoices and proofs of payment related to the work it is approved to perform or has performed.⁵²

E) *All security or investigative work undertaken*:⁵³ The exact scope of this requirement is unclear.

The Policy Manual suggests that, in addition to maintaining the foregoing records, a business licensee must:⁵⁴

- Provide records to the Registrar on request and make records available to investigators and auditors for review;
- Maintain records for a minimum of 2 years or, if the records are related to a court or administrative proceeding, until a decision is rendered and all appeals are exhausted; and
- “Adhere to all record keeping standards imposed by Revenue Canada and other government agencies”.

7. Other Miscellaneous Requirements

Businesses captured by the *Legislation* should also be aware of the following rules:

- A business licensee cannot act as, or hold out or advertise to be, a collection agency or a collector of debts or accounts.⁵⁵
- A business licensee cannot hold out that it provides services ordinarily provided by police.⁵⁶
- A business cannot use the terms “private detective”, “law enforcement officer”, “protection officer”, or “security officer”, or any derivation thereof, in connection with a business or employment.⁵⁷
- A business cannot use the terms “police”, “law enforcement”, “protection officer”, or “security officer” in its name, letterhead, advertising, or in any other way that creates the impression that it performs a law enforcement function.⁵⁸
- The *Legislation* and Policy Manual set out numerous rules and standards related to uniforms, badges, and vehicle markings.⁵⁹

8. Offences and Penalties

⁵⁰ *Act*, *supra* note 1 s 32(a).

⁵¹ *Regulation*, *supra* note 2 s 12(1)(a).

⁵² *Ibid* ss 12(1)(c), 12(1)(d).

⁵³ *Act*, *supra* note 1 s 32(b).

⁵⁴ *Policy Manual*, *supra* note 4 at 6.2.

⁵⁵ *Act*, *supra* note 1 s 36.

⁵⁶ *Ibid* s 37.

⁵⁷ *Ibid* s 40.

⁵⁸ *Ibid* s 41.

⁵⁹ See *Ministerial Regulation*, *supra* note 3 ss 6(e), 6(f), 21, 22, 23, 25; *Policy Manual*, *supra* note 4 at 10.1, 10.2, 10.4, Appendix B, Appendix E, Appendix F.

Contravention of many of the foregoing requirements is deemed an offence under the *Legislation*.⁶⁰
The penalties for such an offence are as follows:

- *Individual*: A fine of up to \$5000, imprisonment for up to one year, or a fine and imprisonment.⁶¹
- *Business*: a fine up to \$250,000.⁶²

Liability may also extend to officers or directors of a business in certain circumstances.⁶³

⁶⁰ *Act*, *supra* note 1 s 9, 44, 45; *Ministerial Regulation*, *supra* note 3 s 30; *Regulation*, *supra* note 2 s 15.

⁶¹ *Act*, *supra* note 1 s 46(1)(a).

⁶² *Ibid* s 46(1)(b).

⁶³ *Ibid* s 46(2).