

ISSN 0796 - 0298

Supplement "C" to The Gambia Gazette No. of _____, 2011
Private Security Guard Companies Act, 2011



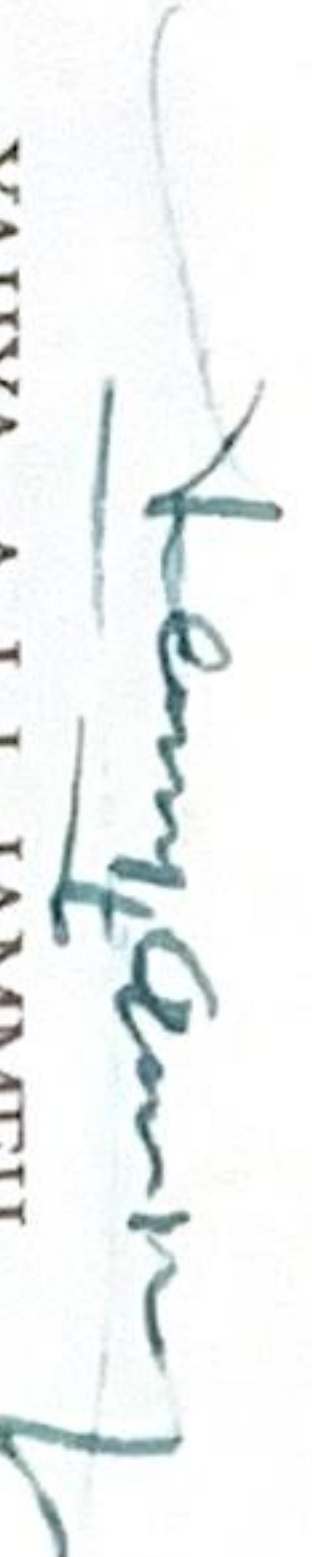
THE GAMBIA

NO. 05 OF 2011

Assented to by The President,

this 12th day of May, 2011




YAHYA A. J. J. JAMMEH
President

LS

An Act to provide for the licensing, regulation and control of Private Security Guard Companies and persons employed as private security guards and for connected matters.

[]

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Bill may be cited as the Private Security Guard Companies Act, 2011.

Short title

Interpretation 2. (1) In this Act, unless the context otherwise requires-

"approved person" means a person approved by the Minister to be employed by a Company as a private security guard;

"Company" means a Private Security Guard company incorporated in The Gambia and licensed under this Act to carry out a licensable conduct;

"firearm" has the meaning assigned to it by the Arms and Ammunition Act;

"identity card" means an identity card issued to a private security guard;

"licence" means a licence issued under this Act and "licensee" shall be construed accordingly;

"licensable conduct" means providing the service of watching, securing, guarding or patrolling premises or carrying money for the purpose of providing protection against crime;

"Licensing Authority" means the Minister or an officer appointed under section 4;

"Minister" means the Minister of Interior and "Ministry" shall be construed accordingly;

"premises" includes a vehicle, movable or immovable structure and any other place whatever, whether or not occupied as land; and

"private guard" means a person employed by a Company as a private security guard.

Application 3. (1) This Act does not apply to -

(a) an inspector, a guard, watchman or other person employed to secure, guard or carry out an inquiry for an employer who is not a Private Security Guard Company; or

(b) a person employed by a Private Security Guard Company to carry out clerical or secretarial duties.

(2) The Minister may, by Order published in the Gazette exclude a person or class of persons from the operation of this Act.

PART II - LICENSING AND ADMINISTRATION OF PRIVATE SECURITY GUARD COMPANIES

Licensing authority for Private Security Guard Companies 4. (1) There is established by this Act, a Licensing Authority for Private Security Guard Companies, which shall be an office in the Ministry or a public officer designated in that behalf by the Minister.

(2) The Minister may delegate any of the powers conferred on him or her under this Act to the Licensing Authority.

Licensing of Private Security Guard Companies 5. As from the commencement of this Act, a Company shall not carry out a licensable conduct unless -

(a) it is incorporated under The Gambia Companies Act;

- Application for licence
- (b) it has been granted a licence by the Minister in accordance with this Act; and
- (c) at least fifty percent of its shareholders and management team is made up of Gambian nationals.
6. (1) An application for a licence shall be made in writing to the Minister in accordance with Form A contained in the schedule to this Act.

(2) The Minister may, before considering an application for a licence, require -

- (a) evidence of the good character, competence and integrity of a director or other person in charge of the operation of the applicant Company;
- (b) sufficient evidence that all existing regulations relating to animal health and certification have been complied with where Alsatian or other guard dogs are to be employed in the service of the Company; and
- (c) such further information as the Minister may specify.
- (3) An application for a licence shall be accompanied by-
- (a) a statement setting out the conditions of service of the employees or prospective employees of the applicant Company; and

(b) the fee prescribed by the Minister, by Order published in the Gazette.

7. (1) The Minister may grant a licence to an applicant if he or she is satisfied that it is justified, having regard to national security and the public interest.

(2) The Minister shall grant a licence in the form and on the conditions specified in Form B in the schedule to this Act.

Licensing criteria

8. (1) The Minister may, by regulations establish the criteria applicable in-

- (a) determining whether or not to grant a licence; and
- (b) exercising the power to revoke or modify a licence under this Act.

(2) The Minister may from time to time, revise the criteria referred to in subsection (1).

(3) The criteria set out by the Minister under this section shall include the conditions considered-

- (a) appropriate for securing that licensees are fit and proper persons;
- (b) appropriate for securing that licensees have the training and skills necessary to engage in private security protection; and
- (c) necessary to protect private security guards against exploitation by licensees.

Nature and effect of Licence

9. (1) A licence issued under this Act shall be valid for one year from the date of issue.
(2) The licence shall specify the number of offices, branches or other places of business which the company is permitted to maintain.

Licence to be displayed

10. A company shall display its licence or a copy of it in a conspicuous place in all the offices it establishes.

Register of licensees and approved persons

11. (1) The Licensing Authority shall establish and maintain a register of licensed Companies and approved persons.
(2) The register shall contain particulars of the -

(a) names of the holders of a licence and approved persons;

(b) addresses of the holders of a licence and approved persons;

(c) expiry date of each licence; and

(d) terms and conditions attached to each licence.

(3) The Licensing Authority shall ensure that arrangements are put in place to-

(a) allow members of the public to inspect the contents of the register; and

(b) secure that adequate publicity is given to a suspension or revocation of a licence in order to bring it to the attention of persons likely to be interested in it.

(4) The Minister may, by Order published in the Gazette impose the fees he or she considers reasonable for the inspection of the register or the making of copies from it.

Registered Address

12. (1) A Company shall, on the day it is registered, notify the Licensing Authority in writing of the physical addresses of all its offices in The Gambia.

(2) A notice of a change in the registered address of a Company or of any of its offices shall be given by the Company to the Licensing Authority within fourteen days of the change.

(3) A Company which fails to comply with this section and each of its Directors commits an offence and are both liable on conviction to a fine not exceeding five thousand dalasis.

Renewal of Licence

13. (1) A Company may, three months before the expiry of its licence, apply for a new licence which shall take effect from the date of expiry of its existing licence.

(2) When a Company fails to apply for a renewal of its licence within the period specified in subsection (1), the licence shall be revoked on its expiry and the holder shall cease to operate as a Private Security Guard Company.

Replacement of licence

14. (1) Where a licence issued under this Act is lost, defaced or is otherwise not in a fit state to be used as a licence, the licensee may apply to the Licensing Authority for a duplicate licence.

(2) The Minister may by Order published in the Gazette prescribe the fees and particulars that shall accompany an application for a duplicate licence.

Suspension and revocation of licence

15. The Minister may, by notice in writing, suspend or revoke a licence at any time if -

- (a) the licensee is in breach of this Act or a condition of the licence; or
- (b) the ownership or controlling interest in the Company has passed to another company or organisation which is considered unsuitable for the grant of a licence.

Certificate of approval

16. A Company shall not employ a person as a private guard unless a certificate of approval has been granted to him or her by the Minister.

Application for approval

17. (1) An Application for the approval of a private guard shall be made by the Company in writing to the Minister, accompanied by the prescribed fee and the particulars specified in Form D in the Schedule to this Act.

(2) The Minister may, in considering the application require the following information with regard to the person intended to be employed as a private security guard -

(a) evidence of good character, competence and integrity;

(b) evidence of Gambian nationality; and

(b) such further information as he or she may specify.

(3) An approval granted under this Act shall be in the form of a certificate signed by the Minister in accordance with Form C in the Schedule to this Act.

(4) The approval granted to a private guard shall subsist until suspended or revoked by the Licensing Authority regardless of the change of employer by the private guard.

Withdrawal of approval

18. The Minister may withdraw a person's approval at any time if he or she is satisfied that the person-

- (a) had provided false information in his or her application for approval;
- (b) is unsuitable to continue to be employed as a private guard.

Identification card

19. (1) A Company shall issue a private guard it employs with an identity card containing a photograph and the personal details of the employee in the form prescribed by the Licensing Authority.

(2) A private guard shall display the identity card on the front upper part of his or her outer garment when he or she is on duty.

(3) A private guard shall produce his or her identification card for inspection when requested to do so by a police officer or a person with whom he or she has been caused to deal with in the course of carrying out his or her duties.

(4) Where a person's approval has been withdrawn, the identification card issued to him or her shall cease to be valid and shall immediately be surrendered to his or her employer.

Restriction on grant of licence or approval

20. The Licensing Authority shall not grant a licence or approval under this Act if a director of the applicant Company or the person on behalf of whom

(a) has been convicted of a criminal offence by court or tribunal of competent jurisdiction in The Gambia or elsewhere;

(b) has been imprisoned for an offence involving fraud, theft or a breach of trust in The Gambia or elsewhere;

(c) has been dismissed or discharged on disciplinary grounds from The Gambia Police Force, Armed Forces, Prisons Service, or a law enforcement agency or service in The Gambia or elsewhere; or

(d) is a person the Minister is satisfied that it is contrary to the public interest or national security for him or her to be a director approved for employment as a private guard

Records and annual return

21. (1) A Company shall-

(a) keep a complete record of all private guards it employs in its business in a form prescribed by the Minister; and

(b) file with the licensing authority when applying to renew its licence or not later than the last day of January in each year, a return showing-

(i) the address of each office or other place of business in which it carried on its business during the preceding calendar year,

(ii) the name and address of each employee of the company during the preceding calendar year, and

(iii) such other information as may be prescribed by the Minister.

(2) A Company shall, whenever requested to do so by the licensing authority make all records required to be kept under this Act available for inspection.

PART III – PROHIBITED ACTIVITIES, OFFENCES AND PENALTIES

22. A Company shall not sue for, recover or retain a commission, fee or reward for carrying out a licensable conduct unless it holds a licence under this Act.

Company not entitled to fees unless licensed

Approval of uniforms and identification marks

23. (1) A private guard shall not use a uniform, badge or other identification mark unless application for approval is made to the Minister.

(2) The Minister shall not approve a uniform or article under subsection (1) if in his or her opinion, it resembles a uniform or article used by a state security or law enforcement outfit in The Gambia.

Training

24. As from the commencement of this Act, a company shall not employ a person as a private guard unless he or she undergoes a prescribed scheme of training for private guards at The Gambia Police Training Academy.

Prohibition of firearms and ammunition

25. A private guard shall not possess or use any firearm or ammunition in the course of his or her duties.

Licenseses not to act as debt collectors

26. A Company shall not act as a debt collector or hold itself out as undertaking to collect debts for another person with or without remuneration.

Acting as police officer

27. A Company shall not at any time, whether by agreement with the police or otherwise, act as or perform the duties of a police officer or any other public law enforcement agent.

Acting as private detective

28. A person engaged in a business or employed in a private guard company shall not use the expression "private detective" in connection with such business or employment or hold himself or herself out in any manner as a private detective.

Confidential information

29. A person shall not divulge information obtained in the course of his or her duties under this Act, except in accordance with a legal duty.

Offences

30. (1) A person who-

- (a) for the purpose of securing an approval under this Act makes a statement or provides information which he or she knows to be false or does not have reason to believe that it is true;
- (b) works as a private guard for a Company when he or she or the Company is not approved or licensed under this Act;

(c) fails to carry or produce the identity card issued to him or her while on duty;

(d) uses a uniform or an article which is not approved for use by the Minister; or

(e) possesses or uses any firearm or ammunition in the course of his or her duty as a private guard,

commits an offence.

(2) A Company licensed under this Act which -

- (a) supplies or offers to supply to another person any firearm, ammunition, tear gas or similar manufactured weapon; or

(b) collects, offers or attempts to collect, engages in the business of collecting debts or claims of any kind,

commits an offence.

Advertisement as to name and address

31. A Company which publishes or causes to be published an advertisement relating to or in connection with its business, other than an advertisement relating solely to the recruitment of staff, without specifying its name and the registered address as appearing in its licence commits an offence.

Selling or disposing of licence

32. A person who sells, lets out, hires or rents licence, certificate of approval or identity card issued under this Act to another person or permits another person to use them commits an offence.

Unlawful entry

33. A private guard who, in the course of his or her employment, enters any premises without lawful authority commits an offence.

Misrepresentation

34. A Company which induces or attempts to induce a person to enter into an arrangement or contract in connection with its business through a false or misleading or deceptive statement, representation or by a wilful concealment of a material fact, commits an offence.

Unlicensed activities

35. A Company which employs, authorises or permits a person to exercise a function which the company is not licensed to carry out under this Act commits an offence.

Employing unapproved persons

36. A Company which knowingly employs as a private guard, an unapproved person or a person whose approval has been withdrawn under this Act commits an offence.

Approval not to confer special power

37. (1) A person shall not, by virtue of being approved have any power or authority which he or she would not have if this Act had not been made.

(2) A person who in any way-

(a) suggests or implies that by virtue of his or her approval, he or she may exercise any power or authority which in fact he or she could not exercise if this Act had not been made; or

(b) uses or attempts to use his or her approval and employment to exercise any such power or authority,

commits an offence.

38. (1) A person who commits an offence under this Act for which no other punishment is provided for, is subject to subsection (2), liable on conviction -

(a) in the case of a natural person, to a fine of not less than five thousand dalasis or twelve months imprisonment or to both the fine and imprisonment; and

(b) in the case of a body corporate, to a fine of not less than ten thousand dalasis.

Cap 21:01

(2) Where a person commits an offence under this Act relating to firearms, he or she may be prosecuted under the Arms and Ammunition Act or any other relevant enactment.

Offences by officers and directors

39. Where an offence under this Act is committed by a Company and is proved to have been committed by a person with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) a director, manager, secretary or other similar officer of the Company; or
- (c) a person who was purporting to act in the capacity,

he or she as well as the Company commits an offence and are both liable to be prosecuted and punished for the offence in the manner as if he or she had committed the offence in an individual capacity.

PART IV - MISCELLANEOUS

Regulations 40. The Minister may make regulations that are necessary to give effect to this Act.

Transitional provision 41. Where a Company or a person was immediately before the date of commencement of this Act providing private security services, the Company or he or she may continue to provide that service without a licence or approval under this Act-

- (a) for a period of nine months from the date of commencement of this Act; and

(b) if within that period an application is made for a licence or approval, until the application is finally disposed of or withdrawn, and if the application is refused, for a further period of six months.

SCHEDULE

• **FORM A**
(Section 6)

APPLICATION FOR LICENCE FOR A PRIVATE SECURITY GUARD COMPANY

1. Name of Company
2. Company particulars -
 - (a) Memorandum and Articles of Association;
 - (b) Certificate of Registration;
 - (c) Present address of Head office; and
 - (d) Present addresses and location of branch offices in The Gambia.
3. Directors and officers of the Company -
 - (a) Name and addresses of all current directors;
 - (b) Occupation of the directors;
 - (c) Name and addresses of the shareholders;
 - (d) Name of the auditors;
 - (e) Name of the Legal Adviser to the Company;

4. Details of persons to be responsible for operations of company -

- (a) Surname
- (b) Other names
- (c) Previous names (if any)
- (d) Date of birth
- (e) Place of birth
- (f) Present residential address
- (g) All places of residence within last three years:
 -
 -
 -

(h) Present occupation

(i) Previous occupation(s)
 (including employer, date and duration of each occupation)

(j) Nationality

(k) Offences (if any) committed in Gambia or elsewhere

5. I have /have not previously been employed in The Gambia Police Force, Prisons Service, Armed Forces, Fire Service, Customs and Excise or such similar law enforcement agency or service in the Gambia or elsewhere (delete inapplicable word or words).

6. If previously employed in The Gambia Police Force, Prisons service, Armed Forces, National Drug enforcement agency, Customs and Excise or such similar law enforcement agency or service in The Gambia or elsewhere, state-

(a) the Service, Force or Agency in which applicant was employed

- (b) the period of such employment.....
- (c) the reason for leaving such employment

STATUTORY DECLARATION

I of do solemnly and sincerely declare that the particulars given above are true, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act.

Signature of Declarant

Declared at this day of 20

Before me

Commissioner for Oaths / Notary Public

** Form A to be repeated in respect of each director or any person concerned.*

FORM B
(Section 7)

**LICENCE TO OPERATE AS A PRIVATE SECURITY
GUARD COMPANY IN RESPECT OF
COMPANY LIMITED**

WHEREAS section 5 of the Private Security Guard Companies Act provides that a company shall not function as a Private Security Guard Company unless it is licensed as such by the Minister;

AND WHEREAS the Minister is satisfied from information supplied by the aforesaid Company that it has complied with the requirements of the Private Security Guard Companies Act relating to the licensing of the company as a Private Security Guard Company:

Now, THEREFORE, this licence is hereby issued to Company limited to operate as a Private Security Guard Company pursuant to section 7 of the Private Guard Companies Act. This licence shall last for a period of one year with effect from the date written below.

DATED at Banjul this.....day of20

.....
Minister of the Interior

FORM C
(section 17)

**APPROVAL IN RESPECT OF A PRIVATE
SECURITY GUARD:**

MR/MRS/MS.....

THIS IS TO CERTIFY that the afore-mentioned person has been approved pursuant to section 16 of the Private Security Guard Companies Act to work as a private security guard.

Dated at Banjul this..... day of.....20 ...

.....
Minister of the Interior

FORM D
(Section 17)

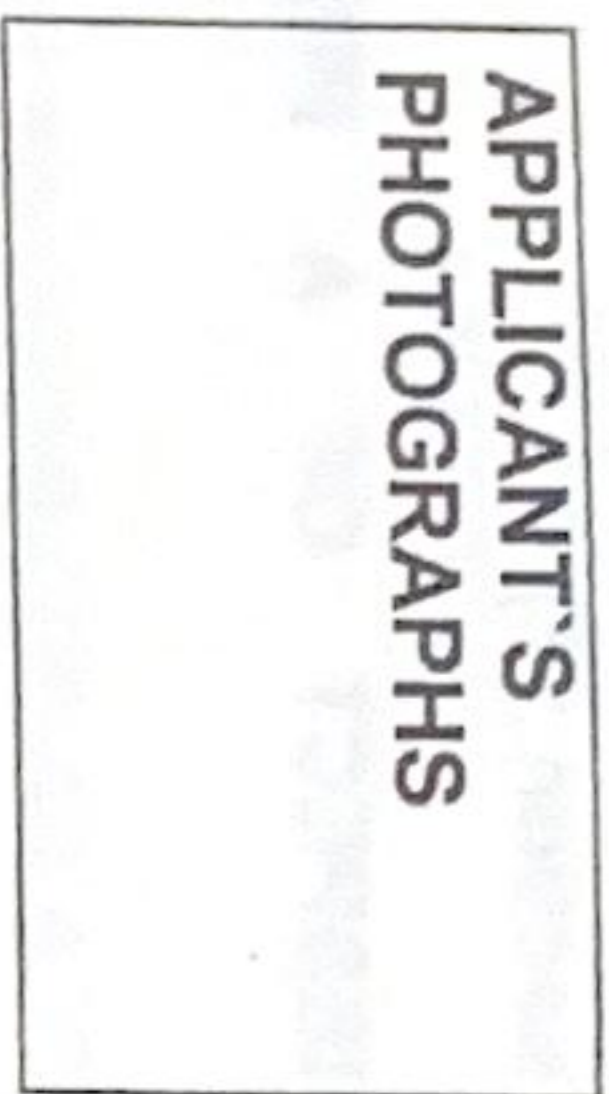
**APPLICATION FOR APPROVAL TO BE
EMPLOYED BY A PRIVATE SECURITY GUARD
COMPANY**

Name of Company

.....
Licence number.....

Date of issue of licence

APPLICANT'S PHOTOGRAPHS



1. Full names of applicant
(Surname)

(Other names)

2. Previous names (If any)

3. Date of birth

4. Place of birth

5. Schools attended

6. Qualifications and dates on which obtained.....

7. Nationality

8. Present occupation

9. Occupation(s) within last three (3) years.....

.....
.....

10. I have/have not previously been employed in the Gambia Police Force, Prisons Service, Armed Force, Fire Service, Customs and Excise or any such similar law enforcement agency or service whether in Gambia or elsewhere
(delete inapplicable word or words)

11. If previously employed in The Gambia Police Force, Prisons Service, Armed Forces, Fire Service, Customs and Excise or similar law enforcement agency or service in The Gambia or elsewhere, state:-

(a) the Service, Force or agency in which applicant was employed

(b) the period of such employment

(c) the reason for leaving such employment

12. I have never been convicted of a criminal offence in The Gambia or elsewhere or I have been convicted of the following offences (state all offences of which applicant has been convicted).
.....
.....
.....

13. I possess the following firearm and ammunition:-
.....
.....
.....

STATUTORY DECLARATION

I of do solemnly and sincerely declare that the particulars given above are true, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act.

.....
Signature of Declarant

Declared at this... Day of 20

Before me

.....
Commissioner for Oaths /Notary Public

FINGERPRINTS OF APPLICANT


5	4	3	2	L.T.P	R.T.P	2	3	4	5

Note - The application should be accompanied by two signed references from a Judge or Magistrate, Notary Public, Legal Practitioner, Justice of the Peace or Civil Servant not below grade 10.

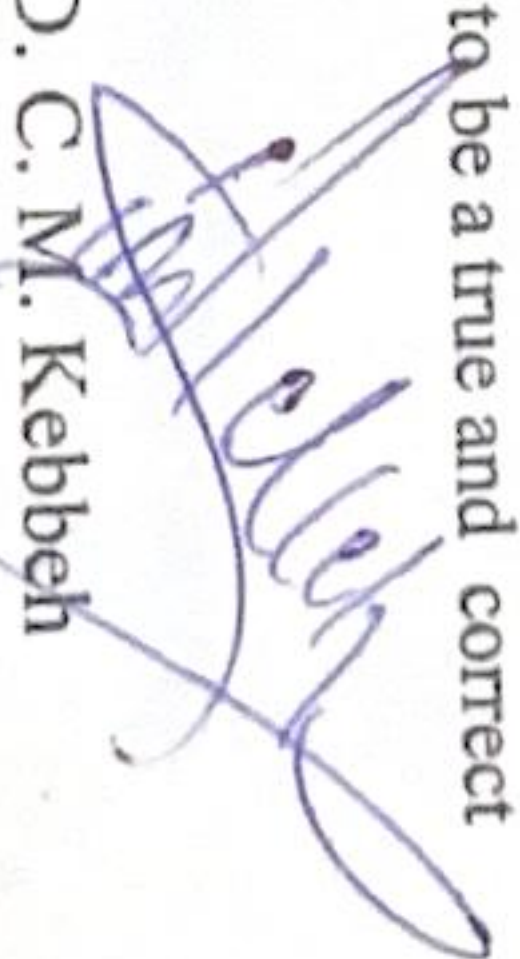
Signature
Designation

PASSED in the National Assembly this
in the year of Our Lord Two Thousand and Eleven

5th day of April


D. C. M. Kebbeh
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.


D. C. M. Kebbeh
Clerk of the National Assembly.