

LAWS OF MALAYSIA

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Act 27

PRIVATE AGENCIES ACT 1971

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PRIVATE AGENCIES ACT 1971

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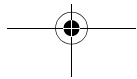
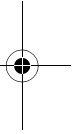
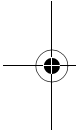
Act 27

PRIVATE AGENCIES ACT 1971

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LAWS OF MALAYSIA

Act 27

PRIVATE AGENCIES ACT 1971

An Act to control the business of private agencies.

[Throughout Malaysia—30 April 1971]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Short title and application

1. This Act may be cited as the Private Agencies Act 1971 and shall apply throughout Malaysia.

Interpretation

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

“business of private agency” means the business or activities which are carried on by a person for the purpose of—

- (a) providing guards and protection for the personal safety and security of another person or for the safety and security of the property or business of such other person; or
- (b) obtaining and furnishing information as to the conduct, activities or affairs of another person;

“letter of approval” means a letter of approval issued under section 9;

“licensed private agency” means a private agency in respect of whose business a licence is issued under section 3;

“Minister” means the Minister charged with the responsibility for internal security; and where by virtue of section 17 the Minister has delegated any or all of his powers and duties to the extent of such delegation the expression “Minister” includes any

person to whom so much of that power or duty has been so delegated;

“private agency” means a person who carries on a business of private agency as hereinbefore defined;

“unlicensed private agency” means a private agency in respect of whose business no licence under section 3 is issued.

Issue of licences

3. (1) No person shall carry on the business of private agency except in pursuance of and in accordance with a licence issued by or on behalf of the Minister and unless there is, in respect of such business, a deposit made in a manner provided by or under subsection (3).

(2) Any person who desires to carry on the business of private agency shall apply to the Minister for a licence and, subject to the provisions of the following subsections, the Minister may issue such licence or refuse to issue it; and in issuing such licence or renewing the same under subsection (4) the Minister may impose thereon such conditions as he may deem desirable for the purpose of carrying into effect the provisions of this Act.

(3) No licence under this Act shall be issued or if issued, no business of private agency shall be carried on, unless there has been made, kept and continued to be kept at all times with the Accountant General a deposit of such sum and in such form as the Minister may prescribe.

(4) It shall be a condition precedent to the issue of a licence under this section that the applicant shall have paid such fee as may be prescribed by the Minister and such licence shall expire not later than the end of the calendar year in which it commences, but may be renewed every year upon payment of the aforesaid fee.

(5) The Minister may by order exempt any person or class of persons from the provisions of this section.

Revocation, cancellation or suspension of licences

4. (1) Where in the opinion of the Minister a licensed private agency carries on its business or engages in activities or its business is being used for any purpose prejudicial to peace,

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welfare and good order in the Federation, or contravenes this Act or any other written law, the Minister may, subject to subsection (4), revoke or cancel or suspend the licence issued to such licensed private agency.

(2) If the revocation, cancellation or suspension of a licence under this section is made by a person to whom the Minister has by virtue of section 17 delegated his power under this section, a licensed private agency who is aggrieved by the revocation, cancellation or suspension of his licence may within 14 days of such revocation, cancellation or suspension appeal to the Minister.

(3) The decision of the Minister in revoking, cancelling or suspending the licence under subsection (1) or made on an appeal under subsection (2) shall be final and shall not be questioned in any court.

(4) Before revoking, cancelling or suspending a licence, the Minister shall give an opportunity to the licensed private agency concerned to show cause why such licence should not be revoked, cancelled or suspended, as the case may be.

(5) Where the licence of a private agency is revoked, cancelled or suspended under this section, the deposit kept under subsection 3(3) shall forthwith be forfeited to the Government and shall thereupon be paid into the Consolidated Fund.

List to be published

5. The Minister shall, in the month of March every year, cause to be published in the *Gazette* a list of licensed private agencies, and additions to and deletions from the list shall be published from time to time as they are made.

Special provision relating to seizable offence

6. Nothing in this Act shall entitle a licensed private agency to enquire into any seizable offence and if a licensed private agency or the employees thereof during the course of business or otherwise obtain any information relating to any seizable offence (whether already committed or to be committed) such licensed private agency or the employees thereof shall pass on such

information to a police officer or make a report at the nearest police station.

Identification papers

7. (1) Every licensed private agency shall provide for and issue to its employees identification papers in such form and containing such particulars as may be prescribed by the Minister.

(2) Every employee of a licensed private agency shall at all times carry the identification paper and produce the same for inspection when required by a police officer to do so and shall surrender the identification paper to the licensed private agency, if he ceases to be employed.

Power of police officer to examine

8. Any police officer may examine identification papers issued under section 7 and may also examine the licence issued under section 3.

Employees of a licensed private agency

9. (1) No person shall be employed in any capacity whatsoever by a licensed private agency unless there has been issued in respect of such person a letter of approval by the Commissioner of Police or the Chief Police Officer.

(2) A licensed private agency who desires to employ a person shall apply for a letter of approval to the Commissioner of Police or the Chief Police Officer of the State in which that person ordinarily resides or, if he is ordinarily resident outside Malaysia, to the Commissioner of Police or the Chief Police Officer of the State in which the licensed private agency has its registered office, and the application shall be in such form and shall contain such particulars as may be prescribed by the Minister.

(3) Upon receipt of an application for a letter of approval, the Commissioner of Police or the Chief Police Officer may, after making such enquiries as he may deem appropriate, issue a letter of approval.

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(4) For the purpose of making inquiries under subsection (3), the Commissioner of Police or the Chief Police Officer may require the person to be employed to submit to all such steps as may be reasonably necessary for the taking and recording of his fingerprints.

(5) The Commissioner of Police or the Chief Police Officer may refuse to issue a letter of approval.

(6) Any person whose application for a letter of approval is refused may within 14 days from the date of such refusal appeal to the Minister who may confirm the decision or direct the issue of a letter of approval.

(7) The decision of the Minister on an appeal under subsection (6) shall be final.

Uniform, badge or emblem

10. Subject to any law relating to uniform, badge or emblem, any uniform, badge or emblem intended to be worn by the employees of a licensed private agency shall first be approved by the Minister.

Power of entry and search of premises of a licensed private agency

11. (1) If the Minister has reason to believe that any licensed private agency carries on its business or engages in activities or its business is being used for purposes prejudicial to peace, welfare and good order in the Federation, he may authorize in writing a police officer not below the rank of Assistant Superintendent to enter into any place which the Minister has reason to believe is used as the place of meeting or business of such private agency.

(2) Any officer authorized to exercise the powers of entry under this section may without warrant and with or without assistance and using force for that purpose if necessary, enter such place and may search such place and any person found therein or escaping therefrom:

Provided no woman shall be searched under this subsection except by a woman.

(3) Any officer authorized to exercise the powers of entry under this section may seize any document or other thing which he reasonably believes to be or to contain evidence relating to the business or activities mentioned in subsection (1).

(4) Nothing in this section shall be deemed to affect the powers of a police officer under the Criminal Procedure Code [Act 593] or any other written law.

Power of entry to and search of premises suspected of being used by unlicensed private agencies

12. (1) If the Minister has reason to believe that business of an unlicensed private agency is carried on or that any books, accounts or other documents of such unlicensed private agency are kept or deposited in any premises or place, he may authorize in writing a police officer not below the rank of Assistant Superintendent to enter into such premises or place.

(2) Any officer authorized to exercise the powers of entry under this section may without warrant and with or without assistance and using force for that purpose if necessary, enter such place and may search such place and any person found therein or escaping therefrom:

Provided no woman shall be searched under this subsection except by a woman.

(3) Any officer authorized to exercise the powers of entry under this section may seize any books, accounts or other documents which he reasonably believes to be or to contain evidence relating to the business of an unlicensed private agency.

(4) Nothing in this section shall be deemed to affect the powers of a police officer under the Criminal Procedure Code or any other written law.

False statement

13. If any person—

- (a) furnishes, in relation to an application for the grant of a licence under section 3, particulars which, to his knowledge, are false or in any material respect misleading; or

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- (b) with a view to inducing the Commissioner of Police or the Chief Police Officer to grant a letter of approval, makes any statement or declaration which, to his knowledge, is false or incorrect, either in whole or in part, or in any material respect misleading,

he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

General penalty

14. Any person contravening the provisions of this Act or any rules made thereunder shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Seizable offence

15. An offence under this Act shall be a seizable offence within the meaning of the law relating to criminal procedure.

Liability of director, etc.

16. (1) Where an offence under this Act has been committed by a body of persons corporate or unincorporate, any person who at the time of the commission of such offence was a director, manager, secretary or other similar officer of the body of persons or who was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Any person who would have been guilty of an offence if anything had been done or omitted by him personally shall be guilty of such offence and liable to the same penalty if such thing had been done or omitted by his partner, agent or servant in the course of partnership business or in the course of his employment, as the case may be, unless he proves that the offence

was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing or omission to do such thing:

Provided that nothing herein shall relieve the partner, agent or servant from liability to prosecution.

Power of Minister to delegate

17. (1) The Minister may in writing delegate all or any of his powers and duties under this Act or any rules made thereunder to any officer in the public service of the Federation and may at any time revoke such delegation.

(2) No delegation under subsection (1) shall affect the exercise of such power or the performance of such duty by the Minister.

Power to make rules

18. The Minister may make rules generally for the carrying out of the provisions of this Act and such rules may—

- (a) prescribe such fees or charges as may be necessary for the purposes of this Act;
- (b) provide for the information and documents to be furnished for the purposes of applications for licence or letter of approval;
- (c) provide for the taking and recording of photographs of persons applying for licence or letter of approval;
- (d) prescribe the amount and form of deposit to be kept with the Accountant General under section 3;
- (e) prescribe the form of licence to be issued under section 3 and of identification papers under section 7;
- (f) provide for approving the uniform, badge or emblem to be worn by an employee of a licensed private agency;
- (g) prescribe the register of employees to be kept by a licensed private agency and to provide for the inspection thereof;

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- (h) prescribe that any act or omission in contravention of the provisions of any such rule shall be an offence;
- (i) provide for transitional provisions in relation to business of private agency which has been carried on before the coming into force of this Act;
- (j) provide generally for the purposes of giving effect to this Act.

Saving

19. (1) In so far as the provisions of this Act relate to a business or company, such provisions shall be construed as in addition or supplementary to, and not in derogation from, the provisions of any written law relating to registration of businesses or to companies.

(2) Nothing in this Act—

- (i) shall be construed as conferring on a licensed private agency or the employees thereof any of the powers which by any written law are conferred upon and exercisable by a police officer, customs officer, immigration officer, prison officer or any other public officer;
- (ii) shall authorize a licensed private agency or the employees thereof to do or to omit to do an act which act or omission is unlawful or illegal by virtue of any written law.

Repeal

20. The Emergency (Essential Powers) Ordinance No. 58 of 1970 is repealed.

LAWS OF MALAYSIA

Act 27

PRIVATE AGENCIES ACT 1971

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975

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PRIVATE AGENCIES ACT 1971

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
13	Act 160	29-08-1975
14	Act 160	29-08-1975