

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 93

An Act respecting private investigators
and security guards

First reading
Second reading
Third reading

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Ministre de la justice



L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The main object of this bill, intended to replace the present Detective or Security Agencies Act, is to broaden the application of the act to make it apply both to the contract field of security and to internal security guards and investigators, that is, not only to agencies that, under contract, provide third parties with security guard or private investigator service, but also to persons employed for security or investigation by a person, other than an agency, who maintains a security guard or private investigator service for his own requirements.

It is also intended to extend the application of the act to activities in the field of security or investigation other than those presently regulated, that is, the carrying of valuables by armoured truck, the installation and maintenance of burglar alarm systems, escorting, monitoring a burglar alarm monitoring station and the collecting and passing on of information on the character, conduct or solvency of other persons.

It is intended further to forbid security guards and private investigators from carrying arms in the discharge of their duties, except in certain cases and on certain conditions.

Finally, it provides for the establishment, at the Ministère de la justice, of a service entrusted with the administration of the act.

Bill 93

An Act respecting private investigators and security guards

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

DIVISION I

APPLICATION

application.
1. This act applies to every person who acts or offers to act as a security agency, private investigation agency, security officer, security guard or private investigator.

person maintain-
ing his own
service.
2. Every person who maintains a security guard or private investigator service for his own requirements is bound, in the same manner as an agency, by the obligations provided in the second paragraph of section 21, in sections 22, 23 and 25 and in the second paragraph of section 32.

provisions
applicable.
In addition, sections 33, 34 and 37, every regulation made under paragraphs *f* and *k* of section 49, and sections 51 to 54 apply, *mutatis mutandis*, to that person.

exclusion.
3. This act does not apply to any peace officer nor to any person or category of persons exempted by regulation, to the extent provided therein.

DIVISION II

ADMINISTRATION

private in-
vestigators
and secu-
rity guards
service.
4. A private investigators and security guards service, consisting of a director and the personnel deemed necessary, is established at the Ministère de la justice.

Personnel. **[[5.** The director and personnel of the service are appointed and remunerated in conformity with the Civil Service Act (1965, 1st session, chapter 14).**]]**

Duties of director. **6.** The director is charged with:
 (a) supervising the application of this act and the regulations;
 (b) receiving the complaints of the public regarding the application of this act and the regulations;
 (c) instituting a training course for private investigators and security guards or promoting its institution.

Report. At the request of the Minister, the director shall submit to him a report of the activities of the service and his recommendations.

Delegation. **7.** The director may, in writing and to the extent that he indicates, delegate the exercise of the duties vested in him by this act to such person as he may designate.

DIVISION III

LICENCES

Licences. **8.** Upon payment of the duties and on the conditions prescribed in the act and the regulations, the director shall issue a security agency licence, private investigation agency licence, security officer's licence, security guard's licence or private investigator's licence or, in the case of the holder of a security agency licence, authorize the carrying of valuables by armoured truck.

Security agency. **9.** The security agency licence authorizes its holder to provide others with security guard service.

Private investigation agency. **10.** The private investigation agency licence authorizes its holder to provide others with private investigator service.

Security officer. **11.** The security officer's licence authorizes its holder to manage and coordinate the security or investigation operations of an agency or a person who maintains a security guard or private investigator service for his own requirements.

Security guard. **12.** The security guard's licence authorizes its holder to provide private security guard service for the protection of persons or property and in particular to act as a watchman or as a monitor at a burglar alarm monitoring station, escort a person, carry valuables by armoured truck, instal or maintain a burglar alarm system, or act as an adviser in such matters.

Private in-
vestigator.

13. The private investigator's licence authorizes its holder to provide private investigator service and, in particular, to search for evidence of offences, to search for missing persons or property and to gather or furnish information as to the character, conduct or solvency of other persons.

Licence re-
quired.

14. No person may act or offer to act as an agency, security officer, security guard or private investigator, advertise as such or act under that title without holding a licence issued to him for that purpose by the director.

Authoriza-
tion
required.

No security agency may carry valuables by armoured truck without holding an authorization for that purpose from the director.

DIVISION IV

ISSUANCE OF LICENCES

Application
or a
licence.

15. Every person applying for a licence shall send his application to the director in the manner and with the documents prescribed by the act and the regulations.

Deposit
and
insurance.

In the cases provided for by regulation, the application must be accompanied with a deposit and a civil liability insurance policy in the amount and form prescribed therein.

Qualifica-
tions.

16. To obtain a licence, the applicant, in addition to complying with the other requirements of the act and the regulations, must

(a) be a Canadian citizen;

(b) be of full age;

(c) never have been convicted of an indictable offence under the Criminal Code unless he has been pardoned in connection with the conviction and,

(d) in the case of an application for an agency licence, give sufficient proof of the hiring of a person to act as security officer.

Application
or an
agency
licence.

17. The application for an agency licence must be submitted by the person intending to provide others with security guard or private investigator service.

Corpora-
tion or
partner-
ship.

If the applicant is a corporation or a partnership, the application shall be submitted by a duly commissioned director or one of the partners and the director shall require that the applicant give him the name of the directors or partners and that the latter meet the requirements set forth in paragraphs *a*, *b* and *c* of section 16.

List of
share-
holders.

Moreover, in the case of a corporation, the director may require that the applicant furnish the list of the shareholders.

Issuance
of licence.

18. The director shall issue the licence in the name of a natural person, a partnership or a corporation; he may issue a duplicate copy of that licence upon request.

Licence re-
fused.

19. The director shall refuse to issue a licence if he is of opinion that the conduct of the applicant shows he is unable to carry on his operation honestly, competently and in conformity with the act and the regulations; the same rule applies, in the case of a corporation, if he is of opinion that one or more of its shareholders could not meet the condition set forth in paragraph c of section 16.

Applicant
heard.

Before refusing to issue a licence, the director must give the applicant the opportunity to be heard.

Validity.

20. A licence is issued for a period of one year.

Shorter
period.

The director may, however, issue a licence for a shorter period if the public interest requires it.

Renewal.

A licence may be renewed on the conditions prescribed by the act and the regulations.

DIVISION V

CONDITIONS GOVERNING LICENCES

Place of
business.
Register.

21. Every agency must have a place of business in Québec.

It shall keep a register at each of its places of business, in which shall be entered all the information provided for by regulation relating to the security officers, security guards and private investigators it employs.

Licence
kept.

It shall also keep its licence or a duplicate copy thereof at each of its places of business.

Employee
holding
security
officer's
licence.

22. Every agency must have, among its staff, a person holding a security officer's licence.

Licence
required.

23. No agency may hire a person to act as a security officer, security guard or private investigator unless he holds a licence issued for that purpose.

Change of
address,
name, etc.

24. The agency shall inform the director within fifteen days of any change of address, name or firm name, director, in the case of a corporation, or partner, in the case of a partnership.

Name,
etc., of
guards, in-
vestigators
and
officers.

25. Every agency shall inform the director within fifteen days of the name, address and licence number of a security

guard, private investigator or security officer it hires or who ceases to be in its employ.

Licence returned.

26. Every holder of a licence, on ceasing activities, must immediately return his or its licence to the director.

Carrying licence.

27. A security officer, security guard or private investigator, when acting as such, must carry his licence and produce it if so required.

Communication with peace officer.

28. A security officer, security guard or private investigator, when acting as such, shall inform a peace officer of any offence or attempted offence of which he becomes aware in a matter with which he is concerned.

Prohibited practices.

29. No holder of a licence may

(a) act as or hold out that he is a peace officer;

(b) lend, lease or transfer his licence to a third person;

(c) use a uniform reserved exclusively for the use of a force of peace officers.

Title granted by licence.

30. No holder of a licence may use any title except the title he is granted by his licence.

Disclosure of information.

31. No holder of a licence may disclose to anyone other than his client or employer, as the case may be, any information obtained in the performance of his duty, except at the request of a court, an inquiry commission or the director.

Arms.

32. No holder of a licence may carry an arm in the performance of his duty except in the cases and on the conditions provided by regulation.

Ownership of arms.

Any arms must be owned by the agency and be kept at its place of business, in accordance with the standards prescribed by regulation.

DIVISION VI

INQUIRIES AND INSPECTIONS

Power of inquiry of director.

33. The director, in the performance of his duty, may,

(a) between seven o'clock A.M. and eight o'clock P.M., enter and inspect the office of an agency, and, in particular, examine the registers, books, accounts, vouchers or other documents;

(b) require any information relating to the application of this act and the regulations and the production of any document relating thereto.

Written report.

34. The director may require that a person holding a licence furnish him with a written report of his activities within such time as the director fixes; the director must, in so requiring, mention the nature of the inquiry in progress or of the complaint received.

List of shareholders.

35. The director may at any time require that an agency send him a list of its shareholders.

Information disclosed upon authorization.

36. No report made or information given to the director under this act may be disclosed without the previous written agreement of the person concerned, except for the purposes of a prosecution under this act.

Prohibited acts.

37. No person may hinder the director in the performance of his duty, mislead him by means of concealment or false declarations, refuse to furnish him with any information or document he is entitled to require and examine under this act, or conceal or destroy any document or property pertaining to an inquiry.

Powers and immunity.

38. The director or any other person he authorizes generally or specially to inquire into any fact related to the application of this act or the regulations, has the powers and immunity granted to commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11), except the power to order imprisonment.

Proof of authorization.

39. A person authorized to perform the duties of the director must, if so required, produce the authorization he holds for that purpose.

DIVISION VII

SUSPENSION AND CANCELLATION OF AND REFUSAL TO RENEW LICENCES

Suspension, cancellation or refusal.

40. The director may suspend, cancel or refuse to renew the licence of a person who

(a) infringes this act or the regulations;

(b) no longer meets the conditions required by this act or the regulations for the issuance of a licence.

Holder
heard.

41. Before cancelling, suspending or refusing to renew a licence, the director shall give the holder the opportunity to be heard.

Decision
transmitt-
ed.

A certified true copy of the substantiated decision of the director shall be sent by registered or certified mail to the person concerned.

DIVISION VIII

APPEALS

Appeal
before the
Commis-
sion de
police du
Québec.

42. Any person whose application for a licence is refused or whose licence is suspended may appeal from the decision of the director before the Commission de police du Québec established by the Police Act (1968, chapter 17).

Delay to
appeal.

43. The appeal is brought by a motion sent to the secretary of the Commission within thirty days after the decision is received by the applicant; it is served upon the director, who shall then send the record relating to that decision to the Commission.

Decision
not
suspended.

44. The appeal does not suspend the carrying out of the decision unless the Commission orders otherwise.

Notice of
hearing.

45. The Commission shall give the director and the applicant, in the manner it deems proper, five clear days' notice of the date, hour and place where they may be heard.

Party
absent.

If a party so convened fails to appear or refuses to be heard at the sitting held for such purpose, or at any resumption of such sitting, the Commission may nevertheless proceed with the hearing of the matter.

Privileges
and immu-
nity of wit-
nesses.

46. A witness has the same privileges and immunity as a witness before the Superior Court.

Decision
of the
Commis-
sion.

47. The Commission may confirm, alter or quash any decision submitted to it and render the decision that should have been rendered.

Decision in
writing,
etc.

The decision of the Commission shall be in writing, signed by the members having rendered it, and substantiated. The decision is final.

Decision
trans-
mitted.

48. A certified true copy of the decision shall be sent by registered or certified mail to the director and the applicant.

DIVISION IX

REGULATIONS

Regulations.

49. The Government may, by regulation,

(a) determine the qualifications required of any person applying for a licence or the renewal of a licence and the level of education and the training courses required;

(b) determine the conditions to be complied with by any person applying for a licence or the renewal of a licence, the duties he must pay, the documents he must furnish and the amount and form of the security and the civil liability insurance policy he must furnish;

(c) determine the additional requirements to be met by the holder of a security agency licence to be authorized to carry valuables by armoured truck;

(d) determine the conditions to be met by the holder of a licence to carry an arm, and the cases where he may carry that arm;

(e) determine the kind and calibre of the arm the holder of a licence may carry;

(f) prescribe the conditions under which arms must be kept at the place of business of an agency;

(g) determine the restrictions that may be entered on the licence;

(h) exempt, in whole or in part, from the application of this act, any person or category of persons;

(i) determine what duties are incompatible with those of the holder of a licence;

(j) determine the form and tenor of licences and applications for licences;

(k) determine the form and tenor of the register to be kept by an agency;

(l) determine standards governing the advertising done by an agency;

(m) determine the clauses and particulars which must be included in a contract signed by an agency and its client.

Teacher, course.

A regulation made under subparagraph *a* or *c* may empower the director to certify a teacher or to recognize a course.

Draft regulation.

50. The Government shall publish a draft regulation in the *Gazette officielle du Québec* at least thirty days before adopting it.

Coming
into force.

The regulation comes into force on the day the Government publishes in the *Gazette officielle du Québec* a notice of its adoption or on such later date as is fixed in the notice. If the Government has amended the draft regulation, the text of the amendments or the final text of the regulation shall accompany the notice.

DIVISION X

OFFENCES AND PENALTIES

Offences.

51. Every person commits an offence who

(a) makes a false declaration in an application for a licence or the renewal of a licence;

(b) contravenes this act or the regulations.

Penalties.

52. Every person who infringes a provision of this act and the regulations, or refuses to comply with an order of the director or the person authorized by the director, is guilty of an offence and liable, in addition to the costs, to a fine of not less than \$100 nor more than \$500 in the case of a natural person and not less than \$200 nor more than \$1 000 in the case of a corporation.

Consent
to, partici-
pation in,
offence.

53. Every person who prescribes or authorizes the commission of an offence, consents thereto or takes part therein, is a party to the offence and liable to the same penalty as that provided for the person who committed it, whether or not the latter has been prosecuted or convicted.

Summary
proceed-
ing.

54. Any proceedings are taken under the Summary Convictions Act (Revised Statutes, 1964, chapter 35) by the Procureur général or any person generally or specially authorized by him for that purpose.

DIVISION XI

TRANSITIONAL AND FINAL PROVISIONS

R.S., c. 42,
replaced.

55. This act replaces the Detective or Security Agencies Act (Revised Statutes, 1964, chapter 42).

Permit
maintained
or
renewed.

56. Any permit issued in conformity with the Detective or Security Agencies Act remains in force to the date of its expiry; from the coming into force of sections 15 to 20 and notwithstanding section 55, such permit may be renewed by the Minister, once only, in conformity with the act replaced.

Level of
education.

57. The condition respecting the level of education, in a regulation made under subparagraph *a* of the first paragraph of section 49, shall not be imposed on a person who, on the date of the coming into force of sections 15 to 20, is the holder of an agent's permit.

Delay to
obtain
licence.

58. Every person discharging security or investigative duties as the employee of a person contemplated in section 2 shall obtain a licence in conformity with this act and the regulations not later than one year after the date of the coming into force of sections 15 to 20; similarly, every person contemplated in section 2 and every agency shall employ a security officer within the same delay.

Delay to
obtain
licence.

59. Every person supplying a security guard service for the carrying of valuables by armoured truck shall obtain a licence and authorization in conformity with this act and the regulations not later than one year from the date of the coming into force of sections 15 to 20; similarly, every person supplying a security service as a paid employee of that employer shall obtain a licence in conformity with this act and the regulations, within the same delay.

Regula-
tions main-
tained in
force.

60. All regulations made or decisions taken under the Detective or Security Agencies Act remain in force until they are repealed or replaced.

Moneys re-
quired.

61. The sums required for the application of this act shall be paid, for the fiscal years 1978/1979 and 1979/1980, out of the consolidated revenue fund and for the following fiscal years, out of the moneys granted annually for such purpose by the Legislature.

Minister
responsi-
ble.

62. The Ministre de la justice is responsible for the application of this act.

Coming
into force.

63. This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by such proclamation, which will come into force on any later date that may be fixed by proclamation of the Government.