Verżjoni Elettronika

A 1112

I assent.

(L.S.) GEORGE ABELA
President

21st December, 2010

ACT No. XXII of 2010

AN ACT to amend the Private Guards and Local Wardens Act, Cap. 389.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and commencement.

1. (1) The short title of this Act is the Private Guards and Local Wardens (Amendment) Act, 2010 and this Act shall be read and construed as one with the Private Guards and Local Wardens Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

Amendment of article 2 of the principal Act.

2. Article 2 of the principal Act shall be amended as follows:

(a) immediately before the definition of "bye-laws" therein there shall be inserted the following new definition:

"Administrative Review Tribunal" means the tribunal established under article 5 of the Administrative Justice Act;

(b) in the definition of "private guard" therein, for the words "on behalf of the said agency" there shall be substituted the words "including such services at a place of entertainment and specialised private guards services;";

(c) in the definition of "private guard agency" therein, immediately after the words "private guard services" there shall be inserted the words "or specialised private guard services" and for the words "an employee to provide guard services in any place of entertainment as may be prescribed" there shall be substituted the words "private guards";

(d) in the definition of "private guard services" for the words from "part-time or casual," to "are open to the public;" there shall be substituted the words "part-time or casual;"; and

(e) immediately after the definition of "security consultancy services" there shall be added the following new definitions:

" "specialised private guard" means a private guard rendering specialised private guard services;

"specialised private guard services" means private guard services in relation to the transportation or guarding in transit of money or property, or in relation to premises where money or property of value is stored, or in relation to other premises otherwise exposed to high security risks;".

Amendment of article 6 of the principal Act.

3. Immediately after subarticle (5) of article 6 of the principal Act, there shall be inserted the following new sub-articles:

"(6) In considering an application lodged by any person desiring to be licensed as a private guard agency employing or engaging private guards to provide private guard services in any place of entertainment the Commissioner shall determine whether the place of entertainment in question requires the provision of such services, taking into account security considerations including in particular the maximum capacity of the place of entertainment in question.

(7) Where a person desires to engage a private guard agency for the purposes of providing private guard services at a

place of entertainment such person shall request the prior authorisation of the Commissioner.

(8) A person desiring to engage a private guard agency for the purpose of providing specialised private guard services shall request the prior authorisation of the Commissioner. The Commissioner shall consider whether the criteria for specialised private guard services are fulfilled.".

Amendment of article 10 of the principal Act.

4. In sub-paragraph (v) of paragraph (a) of article 10 of the principal Act, for the words "of the crime;" there shall be substituted the words "of the crime; or" and immediately thereafter there shall inserted the following new sub-paragraph:

"(vi) has been convicted in Malta or elsewhere of a crime affecting the good order of families."

Amendment of article 11 of the principal Act.

5. Article 11 of the principal Act shall be amended as follows:

(a) in subarticle (3) thereof for the words "make submissions to the Minister" there shall be substituted the words "apply to the Administrative Review Tribunal in accordance with article 15 of the Administrative Justice Act" and immediately after the words "that the licence be issued" there shall be inserted the words "and thereupon the provisions of the said Act shall apply to the proceedings before the said Tribunal and to any appeal from any decision thereof"; and

(b) subarticle (4) thereof shall be deleted.

Addition of new articles to the principal Act.

6. Immediately after article 12 of the principal Act, there shall be inserted the following new articles:

"Prevention of entry of persons in a place of entertainment.

12A. (1) A private guard at a place of entertainment shall have the power to prevent any person from entering that place of entertainment if the person is known to have caused disturbance at the said or other premises, including through violent behaviour or harassment of other persons. Entry may also be denied to any person who refuses to produce an identification document on request, or who appears manifestly intent on causing disturbance or to a person who appears violent on account of intoxication.

Verżjoni Elettronika

(2) Where a person causes disturbance within a place of entertainment by displaying violent behaviour, the private guard at the place of entertainment shall take such measures as necessary to notify the Police immediately and shall have the power to detain such person until the arrival of a Police officer.

(3) Where a person harasses any other person at a place of entertainment, the private guard at the place of entertainment shall notify the Police immediately and shall have the power to escort that person outside the premises, or to detain such person until the arrival of a Police officer.

(4) In giving effect to the provisions of subarticles (1), (2) and (3) the private guard at the place of entertainment may exercise minimum force only where the person fails to comply without physical restraint.

Other powers of specialised private guards.

12B. (1) A specialised private guard may deny entry to any person who fails to produce, on request, an identification or to any person who is causing or whom he reasonably suspects will cause disturbance.

(2) A specialised private guard shall have the power to carry out a search on any person entering the premises being guarded for any arms proper, or objects similar to weapons of any description, or any other object that may be used for defensive or offensive purposes and where the said private guard discovers any such arm proper or object he shall immediately notify the Police and shall withhold the object and detain the person until the arrival of a Police Officer.

Verżjoni Elettronika

(3) Where a person threatens any other person at the premises being guarded, or carries or displays any arm proper or any object that may be perceived as an arm proper or as any other object that may be used for defensive or offensive purposes, or causes a disturbance in any other way whatsoever, a specialised private guard shall have the power to immediately seize any such object as aforesaid and shall detain the person until the arrival of a Police officer. Whenever a person is detained the specialised private guard shall notify the Police immediately.

(4) A specialised private guard engaged in the guarding of money or property in transit, or of any such place where loading or unloading of such money or property is taking place, may detain any person in the area of operation who displays threatening, abusive or violent behaviour, or who displays any arm proper, any object that may be perceived as an arm proper or any other object that may be used for defensive or offensive purposes. Such person shall be detained until the arrival of a Police officer. Whenever a person is detained the specialised private guard shall notify the Police immediately.

(5) In giving effect to the provisions of subarticles (1), (2), (3) and (4) the specialised private guard may exercise minimum force only where the person fails to comply without physical restraint.".

Amendment of article 22 of the principal Act.

7. In subarticle (2) of article 22 of the principal Act, for the words "Every person licensed as a private guard" there shall be substituted the words "licensed as a specialised private guard or a private guard at a place of entertainment".

Amendment of article 23 of the principal Act.

8. In article 23 of the principal act, for the words "a private guard" there shall be substituted the words "a private guard, a specialised private guard or a private guard at a place of entertainment".

Amendment of article 24 of the principal Act.

9. Article 24 of the principal Act shall be amended as follows:

(a) paragraph (e) thereof shall be renumbered as paragraph (f); and

(b) immediately after paragraph (d) thereof there shall be added the following new paragraph:

"(e) standards and conditions to be met for the provision of services under this Act, and for the reporting of measures adopted in order to comply with such standards and conditions;".

Amendment of article 25 of the principal Act.

10. Article 25 of the principal Act shall be amended as follows:

(a) in paragraph (b) thereof, for the words "as a private guard" there shall be substituted the words "as a private guard, a specialised private guard or a private guard at a place of entertainment.";

(b) in paragraph (c) thereof, for the words "private guard services" there shall be substituted the words "private guard services, specialised private guard services, the services of private guards at a place of entertainment" and the words "not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69)." shall be substituted by the words "not exceeding one thousand and two hundred euro (1,200);"; and

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

"(d) who, being a private guard at a place of entertainment or a specialised private guard, exercises excessive use of force or in any other way abuses of the powers conferred upon him under this Act, shall be liable, on conviction, to a fine (*multa*) not exceeding two thousand euro (2,000) and to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.".

Consequential amendment to the Criminal Code.

11. In paragraph (c) of subarticle (1) of article 222 of the Criminal Code for the words "exercised his functions." there shall be substituted the words "exercised his functions;" and immediately thereafter there shall be inserted the following new paragraph:

"(d) on the person of whosoever was exercising his lawful duties as a private guard, a specialised private guard or local warden in accordance with the provisions of the Private

Verżjoni Elettronika

Guards and Local Wardens Act.".

Passed by the House of Representatives at Sitting No. 294 of the 7th December, 2010.

MICHAEL FRENDO
Speaker

PAULINE ABELA
Clerk to the House of Representatives