VERŻJONI ELETTRONIKA

L.N. 110 of 2013

ARMS ACT
(CAP. 480)
Licensing of Private Maritime Security Companies Regulations, 2013

BY VIRTUE of the powers conferred by articles 40 and 65 of the Arms Act, the Minister for Home Affairs has made the following regulations:-

Part I

Preliminary

Citation.

1. The title of these regulations is the Licensing of Private Maritime Security Companies Regulations, 2013.

Interpretation.

2. In these regulations unless the context otherwise requires:

"the Act" means the Arms Act; Cap. 480.

"applicant" means an applicant for a licence under these regulations;

"the Board" means the Private Maritime Security Licensing Board constituted and appointed in accordance with regulation 7;

"Director" means the Director of Trade Services;

"firearm" and "ammunition" have the same meaning as assigned to them in Schedules II and III of the Act;

"high risk area" means an area the Registrar General may from time to time determine, lay down, prescribe, set or specify through the issue of Merchant Shipping Notices and in so doing, and without prejudice to the generality of the foregoing, the Registrar General shall be guided by the circulars, clarifications, codes, decisions, directives, guidelines, instruments, interpretations, manuals, notices, publications, recommendations, regulations, resolutions, rules or any other similar medium of the United Nations or any other body or organisation with an appropriate knowledge or competence on the subject matter;

"in writing" means printed, typewritten, or otherwise visibly represented, copied, or reproduced, including by fax or email or other electronic means;

"licence" means the Private Maritime Security Company

operational licence in accordance with regulation 3;

"licensee" means any person who holds a licence granted under these regulations;

"officer of the customs" has the same meaning as assigned to it in the Customs Ordinance; Cap. 37.

"police officer" has the same meaning as assigned to it in the Police Act; Cap. 164.

"Private Maritime Security Company" or "PMSC" means private contractors legitimately licensed to provide international security personnel, both armed and unarmed, on board vessels for the exclusive purpose of providing protection against piracy or armed robbery at sea in the high risk area;

"Private Contracted Armed Security Personnel" or "PCASP" means adequately trained armed personnel engaged, employed or contracted by a PMSC engaged for the sole purpose of providing additional protection against piracy or armed robbery at sea in the high risk area;

"Registrar General" means the Registrar General of Shipping and Seaman as provided under the Merchant Shipping Act, and includes any person acting under his authority; Cap. 234.

"Rules for the Use of Force" mean a written set of rules adopted by a PMSC as part of its Standard Operating Procedures, comprising of the conditions and limitations for the use of force by any PCASP on board vessels in the high risk area in the face of a real or imminent threat of piracy or armed robbery at sea, and which are consistent with applicable international laws and standards, which may be in force from time to time;

"senior members of management" means those persons occupying key management roles within the PMSC as declared by the applicant in accordance with regulation 9(a);

"Standard Operating Procedures" means a written document comprising of the operational procedures and measures adopted by a PMSC and adhered to by all its PCASPs on board vessels in the high risk area and shall include the PMSC’s Rules for the Use of Force.

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Part II

PMSC Operational Licence

PMSC Operational Licence.

3. (1) No person shall carry out the business of a PMSC without a licence granted under these regulations.

(2) A licence to carry out business as a PMSC shall only be granted under these regulations to a legal person incorporated under the laws of Malta.

Annual licence fee

4. (1) For the issue of every licence there shall be charged an application fee of two thousand and five hundred euro (€2,500) and an annual licence fee of ten thousand euro (€10,000).

(2) The licence shall be valid for a period of four years; the annual licence fee shall be paid or renewed, as the case may be, by the 31st January of each year.

Entitlements of the licensee.

5. By virtue of the licence granted under these regulations, and notwithstanding the provisions of article 5 of the Act, the licensee shall be allowed to acquire, purchase, import, keep, handle, possess, store, ship, export, transit, decommission or dispose of any firearms or ammunition listed in Schedules II and III of the Act, for the exclusive purpose of providing protection against piracy or armed robbery at sea in the high risk area:

Provided that the Board is notified in accordance with regulation 10(1)(a):

Provided further that the acquisition, purchase, importation, handling, keeping, possession, storage, shipping, exportation, transit, decommission or disposal of the said firearms and ammunition shall be carried out in accordance with any applicable law and the licensee shall obtain any export or import licence as may be required.

Possession of firearms and ammunition.

6. A licensee shall ensure that all of its firearms or ammunition remain in the possession of the licensee's employees or PCASP until they are decommissioned or disposed of:

Provided that where the firearms or ammunition are either in transit or in storage, they are in the possession of, or under the supervision of, a person or persons legally authorized to transit or store such firearms or ammunition.

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PART III

Private Maritime Security Licensing Board

Private Maritime Security Licensing Board.

7. (1) There shall be a Board to be known as the "Private Maritime Security Licensing Board".

(2) The Board, which shall consist of six members, shall be composed as follows:

(a) the Registrar General who shall act as the Chairman of the Board;

(b) a representative from the Police Force of Malta who shall be appointed by the Minister responsible for the Police for a term of three years;

(c) a representative from the Department of Customs who shall be appointed by the Minister responsible for Finance for a term of three years;

(d) a representative from the Ministry of Foreign Affairs who shall be appointed by the Minister responsible for Foreign Affairs for a term of three years;

(e) a representative from the Trade Services Directorate who shall be appointed by the Minister responsible for Commerce for a term of three years;

(f) a representative from the Security Services who shall be appointed by the Minister responsible for the Security Services for a term of three years.

(3) Where any member of the Board, as prescribed in sub-regulation (2), cannot attend a meeting of the Board, the said member shall, with the consent of the responsible Minister, immediately appoint a substitute representative to attend the meeting in his stead.

(4) Where any vacancy in the Board occurs, another person shall be appointed in accordance with the provisions of sub-regulation (2), as soon as practicable, to fill the vacancy.

(5) The quorum for a meeting of the Board shall be all six members or substitute representatives.

(6) Decisions of the Board shall be carried by a majority of votes. The Chairman shall have an original vote and, where the votes are equally divided, a second or casting vote.

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(7) Any member of the Board or substitute representative may be removed from office by the appointing Minister if, in the opinion of that appointing Minister, such member or substitute representative is no longer suitable to continue in office.

Functions of the Board.

8. (1) The functions of the Board shall be:

(a) to provide, upon the request of an applicant, the relevant application documentation in accordance with Schedule I or as the Board may prescribe from time to time;

(b) to request an applicant to provide the Board with those documents which the Board may from time to time deem necessary in order for it to grant a licence in terms of regulation 9;

(c) to issue licences in terms of these regulations;

(d) to collect the fees which every applicant and licensee may from time to time be required to pay;

(e) to keep and maintain an up-to-date register of all licensees together with all their relevant information in accordance with regulation 10(4);

(f) keep and maintain a public list of all names of the pending applicants as well all the names of the licensee PMSCs, in accordance with regulation 10(5);

(g) to ensure that licensees do not contravene any of the provisions of these regulations;

(h) to approve secure storage facilities for the local storage of licensees' firearms and, or ammunition;

(i) to keep under review the private maritime security industry and the operation of the legislative framework;

(j) to monitor the activities and effectiveness of persons working in the industry;

(k) to conduct inspections if and when necessary; and

(l) to carry out any other function ancillary to or connected with the functions listed in paragraphs (a) to (k).

(2) The Board may appoint any person or persons to carry out on its behalf any or all of the functions listed in sub-regulation (1).

(3) All expenses associated with the administration of the Board and licences issued under these regulations shall be financed from the fees payable under these regulations.

(4) The Board shall at its discretion be empowered to impose operative conditions on the licensee.

Granting of licence.

9. Before the Board may consider issuing a licence, the applicant shall be required to provide the Board with the following:

(a) a duly filled application form containing the applicant's details including its company registration number, registered address and a list of all the directors and senior members of management, together with their details;

(b) a certified copy of the passport and a clean police conduct certificate for each of the applicant's directors and its senior members of management;

(c) certified copies of the applicant's certificate of registration, memorandum of association and articles of association;

(d) a good standing certificate of the applicant company;

(e) the name and relevant details including passport details and the address of residence of the individual who is duly authorized to act as the legal representative for the applicant;

(f) the relevant addresses of the applicant from which its commercial activities shall take place indicating all relevant contact details and normal working hours.;

(g) certified copies of the applicant's insurance policies issued by well-established insurers and evidencing that the applicant has adequate insurance cover up to the amounts recognized by international standards and practices as being adequate to cover the potential liabilities and contractual indemnities which the applicant may be exposed to during the course of its operational business as a PMSC;

(h) a certified copy of the applicant's Standard Operating Procedures, including the procedures to be followed when the applicant wishes to dispose of any of its registered firearms or ammunition when the applicant company either terminates its services or when the applicant company is being

dissolved, together with a sworn declaration by the directors of the applicant company stating that the said document is consistent with the minimum applicable international laws and standards;

(i) the details of each PCASP employed, engaged, or contracted by the applicant including his name, surname, age, sex, date of birth, place of birth, nationality and passport number, together with a *curriculum vitae* of each PCASP evidencing that he has the necessary adequate qualifications, training and past work experiences as well as a clean police conduct certificate;

(j) certified copies of documentation, if any, which the applicant PMSC may have obtained from other jurisdictions to handle, import, store and transport firearms and ammunition;

(k) proof that the applicant has implemented a quality management system or a risk management system as established by any international accreditation body recognized by the international shipping community as being competent to carry out such accreditation;

(l) where the applicant is a signatory to the International Code of Conduct for Private Security Service Providers, or to any other equivalent international convention or instrument which may from time to time be applicable, proof thereof together with a detailed compliance statement or document evidencing that the applicant operates in compliance with the said Code or other equivalent international convention or instrument.

10. (1) Each licensee shall: The Register

(a) notify the Board within three working days of every acquisition, import, export, storage, transit, transfer or disposal including sale, loss, theft or decommission of any firearm or ammunition belonging to the licensee and the details thereof;

(b) furnish the Board, should it so be required, with sight of each contract of engagement entered into by the licensee with another party to provide security personnel, both armed and unarmed, on board ships for the exclusive purpose of providing protection against piracy or armed robbery at sea in the high risk area;

(c) notify the Board with the details of every new

PCASP employed by or contracted by each licensee and furnish the Board with all the information and documentation required in regulation 9(i);

(d) furnish the Board, should it so be required, with sight of each contract of employment or engagement entered into by the licensee with any PCASP to serve as security personnel, both armed and unarmed, on board ships for the exclusive purpose of providing protection against piracy or armed robbery at sea in the high risk area;

(e) notify the Board when a PCASP ceases to be employed, engaged or contracted by the licensee;

(f) notify the Board with copies of any export or import authorization obtained for any of its firearms or ammunition;

(g) notify the Board with a detailed report drafted by the directors of the company whenever there is any incident on board a vessel regarding a PCASP employed, engaged or contracted by the licensee, together with all the relevant documentation related thereto;

(h) furnish the Board with any other additional information which the Board may require from time to time.

(2) (a) Notification shall be made in writing and shall be deemed effected upon receipt.

(b) Notification pursuant to sub-regulation (1)(a) shall be made in the form prescribed in Schedule II.

(c) Notification pursuant to sub-regulation (1)(c), (e), (f) and (g) shall be made in the form prescribed in Schedule III.

(3) (a) Where a licensee fails to notify the Board in accordance with sub-regulation (1)(a), or fails to notify the Board within the prescribed time limit, the licensee shall be liable to a fine (*multa*) of one thousand and five hundred euro (€1,500) for every firearm or ammunition involved.

(b) Where a licensee fails to notify or furnish the Board with any of the information provided in sub-regulation (1)(b) to (h), the said licensee shall be liable to a fine (*multa*) of one thousand euro (€1,000) for every notification which was not duly made.

(4) The Board shall keep all the information provided by each licensee in a register which is to be kept and maintained by the Board and which shall not be made available to the public.

(5) The Board shall also keep and maintain a list of all names of the pending applicants as well all the names of the licensee companies, which list shall be made available to the public.

Power to carry out checks.

11. (1) The Board may carry out periodical checks, at its own discretion, in order to verify that a licensee continues to fulfill the requirements of these regulations.

(2) Where the Board is not satisfied with the findings resulting from its periodical checks, it may require a licensee or any director or employee thereof to attend before it, at such time and place as it may specify, to answer questions and provide information and documentation with respect to the operations of that licensee.

(3) A licensee or any director or employee thereof shall be obliged to provide such information or documentation which the Board may request in terms of sub-regulation (2).

(4) The Board may request assistance from the Police to carry out or to assist in the carrying out of any checks or interviews in accordance with this regulation.

Suspension or withdrawal of licence.

12. (1) It shall be at the discretion of the Board to suspend, revoke, cancel or annul any licence issued where the licensee:

(a) no longer satisfies the conditions laid down in regulation 9; or

(b) has failed to supply or has supplied incorrect information to the Board; or

(c) has breached any of the conditions of the licence; or

(d) has committed serious or repeated infringements of these regulations.

(2) The decision to suspend, revoke, cancel or annul any licence issued shall immediately be notified to all the relevant local authorities, and those foreign authorities which, as a result of the notification obligations of the licensee under regulation 10, become known to the Board.

(3) Any decision to suspend, revoke, cancel or annul any licence issued shall also immediately be noted in the public list

published in accordance with regulation 10(5).

Duty to report.

13. Every licensee shall immediately inform the Board of any changes or amendments to any information previously furnished to the Board.

Confidentiality.

14. (1) A person who is or was at any time a member of the Board or a substitute representative appointed in terms of regulation 7(3) shall not, save in the course of his duty or functions under these regulations or any other law, or as obliged by a court of law, directly or indirectly communicate any information that came to his knowledge as a consequence of his holding that appointment or position.

(2) Where there is a request made by any government department or authority to the Board for information regarding a licensee or any of its activities, the Chairman of the Board may, after due consideration, permit such information to be communicated.

(3) Without prejudice to any other liability under any other law, any person who acts in breach of sub-regulation (1) shall be liable to a fine (*multa*) of not less than twenty-five thousand euro (€25,000).

Part IV

Storage of firearms and ammunition

Storage of firearms and ammunition. Cap. 37.

15. Notwithstanding the provisions of the Act and of Part IV of the Customs Ordinance, any firearms and ammunition acquired by a licensee and imported or re-imported into Malta, whether by sea or by air, shall upon entry or re-entry into Malta be stored in bonded warehouses under the authority of the Department of Customs or in any other secure storage facility as approved in accordance with regulation 8(h):

Provided that firearms and ammunitions belonging to a licensee may upon entry or re-entry into Malta be subject to any checks or inspections carried out by any duly authorized officer of the customs or a police officer in accordance with the provisions of any other law.

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Part V

Exportation of Firearms and Ammunition

Exportation of firearms and ammunition. S.L. 365.13

16. (1) Whenever a request is made to the Director to export any firearms or ammunition where a licensee is named as the end-user in terms of the Military Equipment (Export Control) Regulations, the said licensee shall inform the Board of such request in accordance with regulation 10(1)(a).

(2) Where the request referred to in sub-regulation (1) is made to the Director, the Director shall consult with the list published in accordance with regulation 10(5) to confirm that the end-user is duly licensed under these regulations.

(3) Where authorization from the Director is granted for such a request, the Director shall also inform the Board and the licensee of such authorization.

(4) Where authorization from the Director is refused for such a request, the Director shall inform the Board and the licensee of such refusal together with the reasons for such refusal.

(5) Any request for the exportation of any firearms or ammunition made where a Maltese legal person, other than a licensee, is named as the end-user shall be refused by the Director.

(6) Where the Director has been notified of any suspension, revocation, cancellation or annulment of a licence in terms of regulation 12(2), the Director may suspend, revoke, cancel or annul any export authorisations granted in respect of that licence.

(7) Nothing in this regulation shall affect the application of existing laws relating to the ability of foreign legal persons to export firearms or ammunition under the Military Equipment (Export Control) Regulations. S.L. 365.13

Expiration of licence. S.L. 365.13

17. When an export authorization is granted by the Director, where a licensee is named as the end-user in terms of the Military Equipment (Export Control) Regulations, the said export authorization shall expire upon the expiration of the licence granted to the licensee under these regulations.

Checks and inspections upon export or re-export.

18. Any firearms and ammunition belonging to a licensee may upon export or re-export into Malta be subject to checks and inspections carried out by any duly authorized officer of the customs or a police officer in accordance with the provisions of any other law.

Non-applicability of the Exportation of Arms and Ammunitions Regulations. S.L. 37.02

19. The provisions of the Exportation of Arms and Ammunitions Regulations shall not apply to exports of any firearms or ammunition where a licensee is named as the end-user.

Part VI

Private Contracted Armed Security Personnel

Applicability of article 40 of the Act.

20. In terms of article 40 of the Act, PCASP employed, engaged or contracted by any licensee, shall be exempt from the prohibitions contained therein subject to the limitations laid down in these regulations.

Non-applicability of Private Guards and Local Wardens Act. Cap. 389.

21. The provisions of the Private Guards and Local Wardens Act shall not apply in respect of any foreign PCASPs employed, engaged or contracted by any licensee.

Part VII

Common Provisions

Requirement to abide with any requirements under any other law, etc.

22. (1) Nothing in these regulations shall exempt any person from any requirement to obtain any other permit, authorization or licence, howsoever described whether in Malta or outside Malta, as may be necessary under any other law regulating the acquisition or carriage of firearms or ammunition to which these regulations apply.

(2) Nothing in these regulations shall be construed as exempting or absolving any person from complying with any other laws, whether in Malta or outside Malta, which may be applicable during the carrying out of the activities of the licensee.

(3) Nothing in these regulations shall be construed as exempting or absolving any person from complying with any other regulations or any decisions, howsoever described, that the Minister may from time to time make or issue, as the case may be.

Schedule I

Application Form for a PMSC Operational License

Name of Applicant Company: .....

Company Registration Number: .....

Registered Address: .....
.....
.....

Any other address (apart from the registered address) where the Applicant Company carries out commercial business, indicating also all relevant contact details and normal working hours of such premises:

1. .....
2. .....
3. .....
4. .....

Name, passport number and address of the Directors of the Applicant Company:

1. .....
2. .....
3. .....
4. .....

Name, passport number and address of senior members of management:

1. .....
2. .....
3. .....
4. .....

Name, passport number and address of duly authorized legal representative/s of the applicant company:

1. .....
2. .....
3. .....
4. .....

Any other details/information:

1. .....
2. .....
3. .....
4. .....

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	Documents Attached to Application	Tick Box if Attached
1	Certified copies of passports of directors	
2	Certified copies or original police conduct certificate of directors	
3	Certified copies of passports of senior members of management	
4	Certified copies or original police conduct certificate of senior members of management	
5	Certified copies of a Certificate of Incorporation, the Memorandum of Association and Articles of Association	
6	A good standing certificate for the Applicant Company, or equivalent document	
7	Certified copies of all the applicant company's insurance policies	
8	Copy of the applicant company's Standard Operating Procedures, including the company's Rules for the Use of Force, together with the sworn declaration by the directors of the company	
9	Details and information on each PCASP employed, engaged, or contracted by applicant company and copies of their *curriculum vitae*	
10	Documentation, if any, which the applicant company may have obtained from other jurisdictions to handle, import, store and transport firearms and ammunition	
11	Proof, where applicable, that applicant company is a signatory to the International Code of Conduct for Private Security Service Providers, or any other equivalent international convention or instrument	
12	Any other document (please specify)	

Schedule II

Notification Form in terms of regulation 10(1)(a)

Name of Licensee Company: .....

Company Registration Number: .....

Notice being given following a:

a. Acquisition ❒

b. Import ❒

c Export ❒

d. Storage ❒

e. Transit ❒

f. Transfer ❒

g. Disposal ❒

h. Other (please specify) ❒

of a firearm/ammunition in accordance with regulation 10(a).

Date of above transaction: .....

Detailed description of above transaction: .....
.....

Details of firearm / ammunition (including serial numbers and relevant export licence number where applicable): .....
.....

Any other relevant information: .....
.....

Date of notice: .....

Person giving notice: .....

Official designation within the Licensee Company: .....

Contact details of person giving notice: .....

Schedule III

Notification Form in terms of regulation 10(1)(c), (e), (f) and (g)

Name of Licensee Company: .....

Company Registration Number: .....

This Notice being given for the following reason/s:

.....
.....
.....

Detailed description of above transaction:

.....
.....
.....

Any other relevant information:

.....
.....

Is any documentation being attached hereto? YES ❒ NO ❒. If yes, please specify what documents are being attached.

.....
.....

Date: .....

Person giving notice: .....

Official designation within the Licensee Company: .....

Contact details of person giving notice: .....

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