

CHAPTER 389

PRIVATE GUARDS AND
COMMUNITY OFFICERS ACT

To provide for the licensing, regulation and control of persons operating, engaged or employed in private guard services and in community officers' services and to provide for matters connected therewith or ancillary thereto.

(15th June, 1996)

(27th August, 1996)

ACT XIII of 1996, as amended by Acts [III of 2002](#) and [XIII of 2005](#); [Legal Notice 425 of 2007](#); Act [XXII of 2010](#); Legal Notices [325](#) and [491](#) of 2011; Act [XXVII of 2011](#); and [Legal Notice 426 of 2012](#) and Act [XIV of 2018](#) and [XXI of 2020](#).

1. The short title of this Act is the Private Guards and Community Officers Act.

Short title.
Amended by:
XIV:2018.2.

PART I

Preliminary

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

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

"bye-laws" means any bye-laws and any other legislation which may from time to time be entrusted to local councils by delegation or agreement as stipulated in the [Local Government Act](#);

"Commissioner" means the Commissioner of Police;

"community officer" means an individual whose services are rendered in the provision of community officers' services;

"community officers agency" means an individual or a body of persons whether corporate or unincorporate, who provide community officers' services;

"community officers' services" means such services as may be required by local councils in the discharge of their duties and responsibilities for the control, regulation and enforcement of bye-laws, including the provision of services for the control and regulation of access and movement by pedestrians or vehicles, generally or on particular occasions and the provision of similar services whether by uniformed or plain clothes community officers;

"Minister" means the Minister responsible for the Police;

"plain clothes community officer" means a community officer without uniform whose services are rendered in the provision of specific duties or parts of legislation, which are listed in the Schedule.

"private guard" means an individual employed or engaged by a private guard agency in the provision of private guard services

Interpretation.
Amended by:
XIII. 2005.37;
XXII. 2010.2;
XIV.2018.3.
Cap. 490.

Cap. 363.

including such services at a place of entertainment and specialised private guards services;

"private guard agency" means any individual or body of persons, whether corporate or unincorporate, providing any private guard services or specialised private guard services and includes any such individual or body employing or engaging private guards;

"private guard services" means any guard service, other than guard services provided by any government department or authority under the provisions of any law other than this Act, provided either by an individual or by a body of persons, whether corporate or unincorporate, in relation to -

- (a) the prevention or detection of intrusion, unauthorised entry or activity, vandalism or trespass on private property;
- (b) the prevention or detection of fraud or theft, loss, misappropriation or concealment of merchandise, money, bonds, stocks, notes or other documents or papers;
- (c) the control, regulation or direction of the movement of the public in private or restricted areas, whether by the use of a vehicle or otherwise, to assure the protection of property;
- (d) the protection of individuals from bodily harm;
- (e) the protection of property;
- (f) the provision of persons for the purpose of guarding money or any other property in transit or for the transportation of such money or other property;
- (g) the provision of armoured cars for the transportation of such money or other property;
- (h) the provision, installation and servicing of safes, alarms, and other security equipment or ancillary items as the Minister may prescribe;
- (i) private investigative services;
- (j) the provision of security consultancy services;
- (k) the operation of premises offering safe deposit facilities other than such operation by banks;
- (l) any other service which the Minister may from time to time by order prescribe;

but shall not include any such services provided to any person, other than a private guard agency or a local council, by his employee whether full-time, part-time or casual;

"private investigative services" means obtaining, selling or supplying to any person any information relating to -

- (a) the identity, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person or a body of persons;
- (b) the background or antecedents of any applicant for

employment;

- (c) enquiries for missing persons or property;
- (d) damage to or loss of property;
- (e) the prevention or detection of industrial espionage;

"security consultancy services" means the provision of advice relating to the security of property, premises, personnel, plant, machinery and equipment;

"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;

PART II

Private Guard Services

3. No person shall operate as a private guard agency or act as a private guard or offer his services as such, unless such person is licensed in accordance with the provisions of this Act.

Private guard agencies and guards to be licensed.

4. No person shall employ, engage or permit the use of private guard services unless such services are provided by a private guard agency or by private guards, as the case may be, licensed in accordance with the provisions of this Act.

Use of private guard services.

5. No private guard agency shall provide any person for duties in, or connected with, private guard services unless such person is licensed as a private guard in accordance with the provisions of this Act.

Employment of private guards.

6. (1) Any person desiring to be licensed as a private guard agency or as a private guard shall make an application in writing to the Commissioner.

Applications for licence of private guard agency and private guards.
Amended by:
XXII. 2010.3;
L.N. 426 of 2012.

(2) Such application shall in the case of a private guard agency, contain the following information which shall be accompanied by such documentation in support thereof, as the case may require:

- (a) the full name and business address, and in the case of an individual a legally valid identification document number and in the case of a commercial partnership, the registered number and office of the partnership;
- (b) the name under which the applicant intends to carry on his activities;
- (c) the nature of the activities which the applicant intends to carry on;
- (d) in the case of a body of persons the names and addresses and legally valid identification document numbers of the shareholders, partners, directors, secretaries and any other officers of the body and

where any of such persons is a partnership the registered number and office of the partnership and the number of persons they propose to employ;

- (e) a declaration by the applicant stating that he has no financial or other interest which could in any way conflict with the services to be provided by the private guard agency; such other interest shall include any other business or economic activity carried out or being carried out, or services provided or being provided, or employment held or being held, by the applicant;
- (f) if an applicant was previously carrying on any business activity, the financial statements for the last three years, and if under any other law such financial statements are required to be audited, the audited financial statements;
- (g) experience relevant to private guard services held by any person mentioned in paragraphs (a) and (d) above.

(3) In the case of a private guard the application shall contain the following information which shall be accompanied by such documentation in support thereof, as the case may require:

- (a) the full name, address and a legally valid identification document number;
- (b) the date and place of birth;
- (c) full details of the applicant's working experience;
- (d) a declaration by the applicant stating that he has no financial or other interest which could in any way conflict with the services to be provided as a private guard;
- (e) academic, training and other qualifications held to act as a private guard.

(4) An application under this article shall be accompanied by such fee as may be prescribed.

(5) The Commissioner may, in the circumstances of any particular case require additional information or that any information submitted under this article be supported by such relevant documentation as he may require.

(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.

7. The Commissioner shall, within fifteen days of the receipt of such application, give notice in the Gazette of such application with such details as he may consider appropriate.

Publication of application.

8. (1) Any person may, within one month from the publication of such notice, object in writing to the issue of such licence on any of the grounds listed in article 10.

Objection to application.

(2) The Commissioner shall consider any such objection and shall verify any statements made therein. For this purpose the Commissioner may require the person objecting to produce or indicate proof to substantiate any statement made in any such objection.

(3) Any objection made under the provisions of this article shall be treated as confidential.

9. Having considered the application made and any objections received under article 8 the Commissioner shall within four weeks from the lapse of one month mentioned in article 8(1) -

Acceptance or refusal of application.

- (a) either issue a licence to the applicant to act as a private guard agency or as a private guard; or
- (b) refuse the application.

10. The Commissioner shall refuse an application in any of the following circumstances:

Refusal to issue licence.
Amended by:
III. 2002.167;
L.N. 425 of 2007;
XXII. 2010.4.

- (a) where the applicant or any officer of the applicant or any person who has an effective control of the services to be provided by the applicant -
 - (i) has been convicted in Malta or elsewhere of any crime of wilful homicide or of wilful grievous bodily harm or any crime against property aggravated by amount exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or by violence or any crime against public trust or any other serious crime; or
 - (ii) has been declared bankrupt or his financial position is precarious or otherwise renders the applicant unsuitable; or
 - (iii) has been discharged from the Police or armed forces or the prison services because of any offence or other misbehaviour; or
 - (iv) is a public officer other than one who belongs to a grade or category as may be prescribed by the Minister or a member of the Police or armed

- forces or the prison services; or
- (v) has been convicted in Malta or elsewhere of a crime against the person or against property and the application is made within five years from the commission of the crime; or
- (vi) has been convicted in Malta or elsewhere of a crime affecting the good order of families;
- (b) when he considers that it is in the public interest to refuse such a licence; or
- (c) where the applicant does not possess the necessary qualifications as may be prescribed by or under this Act.

Application to the
Administrative
Review Tribunal.
Amended by:
XXII. 2010.5;
L.N. 325 of 2011;
XXI of 2020.

11. (1) If the Commissioner refuses to issue a licence to an applicant to act as a private guard agency or as a private guard, he shall forthwith communicate in writing such decision to the applicant stating the reason for such refusal:

Provided that in the case of a refusal under article 10(b) , it shall be sufficient to state that the licence has been refused in the public interest.

(2) The Commissioner shall, in the case of a refusal in the public interest, keep a copy of such refusal and the actual reason therefor, for possible onward transmission to the Administrative Tribunal should the applicant appeal from the Commissioner's decision.

(3) On the receipt of a licence or of the notice of refusal, the applicant may, within one calendar month from such receipt, apply to the Administrative Review Tribunal in accordance with article 15 of the Administrative Justice Act requesting that any terms or conditions attached to such licence be removed or changed, or in the case of a refusal that the licence be issued 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.

Cap. 490.

Issue of licence of
a private guard or a
private guard
agency.

12. (1) A licence issued by the Commissioner under article 9 -

- (a) shall be valid for a period of one year from its date of issue;
- (b) may be limited to any of the private guard services;
- (c) shall be subject to the specific condition that the holder of the licence shall inform the Commissioner of any change in the information submitted in relation to the relevant application;
- (d) shall be subject to such other terms and conditions as the Commissioner may deem fit to attach to such licence.

(2) Subject to the other provisions of this Act, a licence issued under this Act may be renewed from year to year on the expiration of its validity and on the payment of such fee as may be prescribed.

(3) The issue of a licence under this Part shall in no way be

deemed to vest any right or privilege to the holder thereof to do any thing, of whatever nature, in relation to third parties or their property which such person did not have the right to do prior to the promulgation of this Act.

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.

Prevention of entry of persons in a place of entertainment.
Added by:
XXII. 2010.6.

(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 sub-articles (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.

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.

Other powers of specialised private guards.
Added by:
XXII. 2010.6.

(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.

(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 sub-articles (1), (2), (3) and (4) the specialised private guard may exercise minimum force only where the person fails to comply without physical restraint.

Withdrawal and suspension of licence.
Amended by:
XXI of 2020.

13. (1) Where the holder of a licence does not conform to any term or condition under which the licence has been issued or where such circumstances arise which could have justified the refusal of an application for such licence, the Commissioner may either withdraw or suspend such licence.

(2) Where a licence has been withdrawn or suspended the Commissioner may grant a new licence or withdraw the suspension where the circumstances giving rise to the withdrawal or suspension have been removed or no longer exist.

(3) The provisions of article 11(3) shall *mutatis mutandis* apply to a submission made to the Minister under sub-article (3).

PART III

Community Officers Services

Amended by:
XIV.2018.4.

Community officers' agencies and community officers to be licensed.
Substituted by:
XIV.2018.5.

14. No person shall act as a community officers' agency or as a community officer or offer his services as such unless such person is licensed in accordance with the provisions of this Act.

Use of community officers' services.
Substituted by:
XIV.2018.6.

15. No person shall employ, engage or permit the use of community officers' services unless such services are provided by a community officers' agency or by a community officer, as the case may be, licensed in accordance with the provisions of this Act.

Employment of community officers.
Substituted by:
XIV.2018.7.

16. No community officers' agency shall provide any person for duties in, or connected with, community officers' services unless such person is licensed as a community officer in accordance with the provisions of this Act.

Application of articles 6 to 13 to community officers' agencies and community officers.
Amended by:
XXVII. 2011.2;
XIV. 2018.8.

17. (1) Subject to the provisions contained in this Part the provisions of articles 6, 7, 8, 9, 10, 11, 12(1)(b), (c) and (d) and 13 shall apply *mutatis mutandis* in relation to a licence for a community officers' agency or for a community officer in the same way as they apply to an application for a licence for a private guard agency or for a private guard, as the case may require.

(2) An application for a licence for a community officers' agency or for a community officer shall be accompanied by such fee as may be prescribed.

(3) A licence issued by the Commissioner of Police may be revoked or suspended by a Disciplinary Board made up of three persons appointed by the Minister responsible for Local Government for a period of three years to hear and decide on misconduct or abuse of power of community officers according to regulations published by the same Minister which the termination of appointment of the members of the Board, the procedures before the Board, the functions of the Board and ancillary matters.

(4) A person shall not be qualified to be appointed or to hold office as a member of the Board if he:

- (a) is a member of the House of Representatives; or
- (b) is a member or an official of a Local Council, or
- (c) is a Judge or a Magistrate; or
- (d) is legally incapacitated; or
- (e) has been declared bankrupt or has made a composition or arrangement with his creditors; or
- (f) has been convicted of a crime affecting public trust or theft or fraud or of knowingly receiving property obtained by theft or fraud; or
- (g) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Board.

(5) The Board shall have the following functions:

- (a) to expeditiously inquire into and report on any matter regarding the misconduct or abuse of power of community officers;
- (b) to inquire and report on any complaint made to it in writing by a community officer against treatment which the community officer deems prejudicial or discriminatory:

Provided that the Minister may from time to time add to or revise the functions of the Board by means of regulations.

18. (1) A community officer shall have the power to stop any person, whom he suspects to have committed any breach of any bye-laws, for the purpose of identifying such person and taking his particulars, but may not detain any person except as provided in the following sub-article.

(2) A community officer may detain any person for the purpose of taking him before a Police officer or until the arrival of a Police officer, where such person refuses to stop and give his particulars or for the purpose of preventing such person from committing a breach of any bye-laws where such person has been warned to desist and has not desisted voluntarily.

(3) Any person who refuses to give, or untruthfully gives to any community officer in the exercise of his duties, his name, surname, address and other particulars that may be lawfully required shall be guilty of a contravention and shall on conviction

Power of community officers to detain persons and obtain particulars.
Amended by:
L.N. 425 of 2007;
XIV. 2018.9.

be liable to a fine (*ammenda*) of fifty-eight euro and twenty-three cents (58.23).

Resistance and
violence against
community
officers.

Amended by:
XIV.2018.10.

19. (1) No person shall in any way assault or resist by violence any community officer in the execution of his duties under this Act.

(2) Saving any higher punishment to which he may be liable under any other law any person who contravenes the provisions of this article shall be guilty of an offence and shall be liable on conviction to imprisonment for a term of one to six months:

Provided that no punishment shall be awarded for the mere act of assault or resistance against any person who, although he shall have attempted to commence, or shall have actually commenced to act, shall at the first warning given by the person assaulted or to whom resistance is offered, or by any public authority, desist from the further commission of the crime.

Plain clothes
community
officers.

Added by:
XIII. 2005.38.
Amended by:
XIV.2018.11.

19A. A plain clothes community officer shall only be entitled to enforce the provisions of legislation listed in the Schedule, which schedule may be amended by virtue of a notice made by the Minister.

Abuse of authority.

Amended by:
XIV.2018.12.
Cap. 9.

20. The provisions of articles 112, 113, 114, 115 and 119 of the Criminal Code shall apply to a community officer.

PART IV

General

Indemnity
insurance.

21. (1) Every person licensed under this Act shall for as long as he is so licensed be covered by an indemnity insurance, in such manner and for such amount as may be prescribed against any liability which such person may incur for compensation in respect of any loss or damage that any other person may suffer as a result of any act done or omitted to be done by the person aforementioned or by any of his employees in the carrying out of any services provided under a licence issued in accordance with the provisions of this Act. Such insurance shall be made by the employer if the person licensed is an employee.

(2) Every person bound to be covered by an indemnity insurance under this article shall each year within a week of taking out or renewing such indemnity insurance inform the Commissioner in writing of the insurance company and the relative number of the insurance policy.

(3) For the purposes of this article every person bound to be covered by an indemnity insurance shall, together with the information required under sub-article (2), submit a list of persons, if any, employed with him.

(4) Any changes to the list of employees submitted under the provisions of sub-article (3) shall be notified to the Commissioner within one week from the occurrence of any such change.

(5) Any person who fails to comply with any of the provisions of this article shall be deemed to operate without the licence required under this Act.

22. (1) Every person licensed as a community officer, shall, while on duty and only during such time, or while travelling to or from his turn of duty, wear such distinguishable uniforms and other identity and, or, distinctive badges or marks as approved by the Commissioner.

Use of uniforms.
Amended by:
XXII. 2010.7;
XIV.2018.13.

(2) Every person licensed as a private guard, licensed as a specialised private guard or a private guard at a place of entertainment shall carry such identity card or document as shall be prescribed and shall wear such distinctive uniform and other identity and, or, distinctive badges or marks as may be prescribed.

23. No person shall provide courses for the provision of academic, training and other qualifications that may be required for a person to obtain or hold a licence as a private guard, a specialised private guard or a private guard at a place of entertainment or as a community officer, unless the said courses have been approved by the Commissioner.

Courses approved
to provide training,
etc.
Amended by:
XXII. 2010.8;
XIV. 2018.14;
XXI of 2020.

24. The Minister may make regulations for the purpose of carrying into effect the provisions of this Act, and may, without prejudice to the generality of the foregoing, by such regulations prescribe -

Power to make
regulations.
Amended by:
XXII. 2010.9;
XIV. 2018.15.

- (a) fees payable under this Act or for any services under or pursuant to this Act, and different fees may be so prescribed for different services or for different licences under this Act;
- (b) the forms to be used for any of the purposes under this Act;
- (c) the academic, training and other qualifications that may be necessary for the granting or holding of a licence under this Act;
- (d) for the approval of courses to provide academic, training and other qualifications necessary for the granting of a licence under this Act;
- (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;
- (f) anything that may or is to be prescribed under this Act:

Provided that in the case of regulations made in relation to community officers, community officers' services or community officers' agencies, such regulations shall be made with the concurrence of the Minister responsible for local government.

Offences and penalties.

Amended by:
L.N. 425 of 2007;
XXII. 2010.10;
XIV. 2018.16.

25. Any person -

- (a) who operates a private guard agency or a community officers' agency in contravention of any of the provisions of this Act or of any licence issued thereunder or acts in breach of the provisions of article 23, shall be guilty of an offence and shall be liable on conviction, to a fine (*multa*) not exceeding twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) and to imprisonment for a term not exceeding one year or to both such fine and imprisonment;
 - (b) who acts or is employed as a private guard, a specialised private guard or a private guard at a place of entertainment or as a community officer in contravention of any of the provisions of this Act or of any licence issued thereunder shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (4,658.75) and to imprisonment for a term not exceeding six months or to both such fine and imprisonment;
 - (c) who employs, engages or permits the use of private guard services, specialised private guard services, the services of private guards at a place of entertainment or of community officers' services in contravention of article 4 or article 15 or otherwise is in breach of any provision of this Act other than those to which paragraphs (a) and (b) hereof apply shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand and two hundred euro (1,200);
 - (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) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.
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SCHEDULE
(Article 19A)*Added by:
XIII. 2005.39.
Substituted by:
L.N. 491 of 2011.
Amended by:
XIV. 2018.17.*Laws or Regulations which may be enforced
by Plain Clothes Community Officers

Legislation	Cap. or S.L. number	Particular provisions, if any
<u>Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations</u>	S.L. 549.40	
<u>Environmental Management Construction Site Regulations</u>	S.L. 552.09	
<u>Litter Act</u>	Cap. 206	Articles 3, 4, 5, 8.
<u>Control of Dogs Regulations</u>	S.L. 312.01	
<u>Tobacco (Smoking Control) Act</u>	Cap. 315	Article 14
<u>Smoking in Public Places Regulations</u>	S.L. 315.04	
<u>Management of Bathing Water Quality Regulations</u>	S.L. 465.09	Regulations 19(1) and (2)