

## Chapter 2

### **The Private Security and Investigative Services Act and The Ministry Code of Conduct.**

The Private Security and Investigate Services Act, 2005 (PSISA) regulates the security industry. Therefore, security guards must be familiar with the PSISA to ensure they follow its regulations and prohibitions, including the Code of Conduct.

#### **The Private Security and Investigative Services Act, 2005**

Bill 159 was introduced to the Legislative Assembly of Ontario on December 09, 2004. It was introduced to replace the Private Investigators and Security Act. The new act came into effect in 2005 and was re-named The Private Security and Investigative Services Act. Regulations under the act came into effect on August 23, 2007 with the exception of:

Uniforms	August 23, 2009.
Vehicles	August 23, 2009.
Insurance	August 23, 2009.
Training	April 15, 2010.

The new law requires security industry workers to be licensed, including some that were not licensed previously. New licensing provisions allow the security worker to own their license (company use to own it).

Changes include: standards to uniforms, equipment, vehicles, license eligibility, use of force reporting, and conduct.

#### **Your Responsibility RE: Licensing**

The PSISA now makes the security guard responsible for their security license. Having said that, one must be aware of various requirements when it comes to your security license.

#### **License Types:**

4. The following are the types of licences that may be issued under this Act:
  1. A licence to act as a private investigator.
  2. A licence to act as a security guard.
  3. A licence to engage in the business of selling the services of private investigators.

4. A licence to engage in the business of selling the services of security guards.
5. A licence to act as both a private investigator and a security guard.
6. A licence to engage in the business of selling the services of both private investigators and security guards. 2005 c.34, s.4.

### **Individual Licences**

6. No person shall act as a private investigator or a security guard or hold himself or herself out as one unless the person holds the appropriate licence under this Act and,
  - (a) is employed by a licensed business entity, a registered employer under section 5, or an employer that is not required to be registered; or
  - (b) is the sole proprietor of a licensed business entity or is a partner in a licensed business entity. 2005, c. 34, s. 6.

In order to work as a security guard or private investigator one must have a valid security license. (Section 5 refers to registration of a business entity and/or registered employer.)

### **Mandatory Requirements**

10. (1) No person is eligible to hold a licence under this Act unless,
  - (a) the person possesses a clean criminal record; and
  - (b) in the case of an individual,
    - (i) the person is 18 years old or older,
    - (ii) the person is entitled to work in Canada, and
    - (iii) the person has successfully completed all prescribed training and testing. 2005, c. 34, s. 10 (1).

### **Failure To Meet Requirement:**

- (2) If, at any time subsequent to being issued a licence, a person ceases to meet a requirement set out in subsection (1), the person shall not continue to act or offer services under the licence and shall return the licence to the Registrar as required under section 37 within five days, excluding Saturdays, Sundays and public holidays, within the meaning of the *Employment Standards Act, 2000*. 2005, c. 34, s. 10 (2).

### **Notice From Registrar**

- (3) Where the Registrar becomes aware that a person no longer meets a requirement set out in subsection (1), the Registrar shall promptly give

the person notice that the Registrar's records have been changed to show that the person no longer has a valid licence. 2005, c. 34, s. 10 (3).

### **Reconsideration of Notice**

(4) Where the Registrar has given notice under subsection (3), the person to whom notice has been given may request that the Registrar reconsider the change to the Registrar's records, and the Registrar may consider any relevant information in doing so. 2005, c. 34, s. 10 (4).

### **“Clean Criminal Record”**

(5) For the purposes of subsection (1), a person possesses a “clean criminal record” if,

(a) the person has not been convicted of a prescribed offence under the *Criminal Code (Canada)*, the *Controlled Drugs and Substances Act (Canada)* or any other Act of Canada; or

(b) the person has been convicted of such an offence and a pardon under the *Criminal Records Act (Canada)* has been issued or granted. 2005, c. 34, s. 10 (5).

### **Section 10 of the PSISA covers:**

- Who is eligible to hold a license.
- What happens if you no longer meet the eligibility to hold a license.
- How the ministry will inform you that you no longer eligible to hold a license.
- Your ability to request to reconsider your ineligibility to hold a license.
- What the ministry sees as having a clean record.

### **Application for Licence**

11. (1) A person who applies to the Registrar for the issuance or renewal of a licence shall,

(a) provide a mailing address for service in Ontario;

(b) pay the required fee for the issuance or renewal of the appropriate licence;

(c) provide a declaration that lists,

(i) all of the person's convictions for and findings of guilt for offences under a law of Canada up to the date of the declaration for which a pardon under the *Criminal Records Act (Canada)* has not been issued or granted,

- (ii) all of the person's convictions for and findings of guilt for a provincial offence or an offence under a law of any other province or territory of Canada,
  - (iii) all fines levied against the person for a provincial offence that remain unpaid on the date of the declaration,
  - (iv) all of the person's convictions for criminal offences under the laws of other jurisdictions for which a pardon has not been issued or granted,
  - (v) all charges for allegedly committing an offence against a law of Canada that have been laid against the person and that have not been resolved on the date of the declaration, and
  - (vi) all charges for allegedly committing a criminal offence against the laws of another jurisdiction that have been laid against the person and that have not been resolved on the date of the declaration;
- (d) provide consent for the Registrar to collect information on any matter mentioned in clause (c);
- (e) if the person is a business entity, provide the things required under clauses (c) and (d) in respect of the business entity and of every officer, director or partner, as the case may be, of the business entity;
- (f) if the person is an individual, provide proof,
- (i) of his or her age,
  - (ii) of his or her entitlement to work in Canada, and
  - (iii) that he or she has successfully completed all prescribed training and testing; and
- (g) in the case of a licence to engage in the business of selling the services of private investigators or security guards, provide proof of the insurance required under section 30. 2005, c. 34, s. 11 (1).

This section of the Act covers information pertaining to the application of the license and covers off topics such as:

- Providing a mailing address to the Ministry.
- Should you have been convicted of a type of offences that you have received an official pardon for it.

### **Licences – General Rules**

**12.** The following rules apply in respect of licences and licensees:

1. A licence shall clearly indicate what type of licence it is.

2. A licence shall clearly indicate the date on which it expires.
3. A person may be issued more than one type of licence, but, regardless of the licences a person holds, the person may not act as a security guard and a private investigator at the same time.
4. Every licence shall display a clearly recognizable photograph of the holder, if the holder is an individual.
5. A licence is not transferable. 2005, c. 34, s. 12.

Section 12 of the Act talks about general rules for your license which includes:

- Your expiry date, type of license, and photograph must be clear on your license.
- License is not transferable. (it is yours and can not be used by anyone else)

### **Revocation**

- 15.** (1) The Registrar may revoke a licence,
- (a) for any reason for which the Registrar could refuse to issue or renew a licence under subsection 13 (2); or
  - (b) if the licensee is in breach of a condition of the licence. 2005, c. 34, s. 15 (1).

### **Suspension**

- (2) If the Registrar proposes to revoke a licence and he or she considers it to be in the interest of public safety to do so, the Registrar may by order suspend the licence and any such order takes effect immediately. 2005, c. 34, s. 15 (2).

### **Duration of Suspension**

- (3) Despite anything contained in the *Statutory Powers Procedure Act*, a suspension under subsection (2) continues in effect until,
  - (a) if the licensee requests an opportunity to be heard under subsection 16 (3), a final determination has been made in respect of the proposed revocation as a result of there being no further right of appeal;
  - (b) the Registrar receives new information that leads the Registrar to believe that the licence should not be revoked; or
  - (c) if the licensee does not request an opportunity to be heard within the time permitted under subsection 16 (3), the Registrar revokes the licence. 2005, c. 34, s. 15 (3); 2009, c. 33, Sched. 9, s. 11 (1).

*This section of the act talks about the revocation of your license and includes:*

- The right of the ministry to refuse issue or renewal of your license under section 13 (2) of the act. Section 13 (2) also talks about when the ministry may decline an application
- Should the ministry suspend your license it comes into effect immediately.
- How long your suspension can last.(section 16 (3) deals with requesting a hearing)

### **General Duties and Standards of Practice**

*Part 6* of the PSISA lists general duties and standards of practice under the act. There are 11 sections under this part here are some that a security guard should be familiar with:

#### **Appropriate Licence**

- 31.** No business entity shall employ a private investigator or a security guard unless the private investigator or the security guard has an appropriate licence. 2005, c. 34, s. 31.

Section 31 of the act states that, any company who hires someone to work in security must ensure that they have a valid security or private investigator license.

#### **Identification-Private Investigator**

- 34.** (1) Every person who is holding himself or herself out as a private investigator shall,
- (a) carry his or her licence;
  - (b) on request, identify himself or herself as a private investigator; and
  - (c) on request, produce his or her licence. 2005, c. 34, s. 34 (1).

This section states that anyone working as a private investigator must:

- Carry their licence on them.
- When asked, must identify him/her self as a private investigator.
- **When asked, must produce his or he license.**

### Carrying Your Security Guard License:

- 35.** (1) Every person who is acting as a security guard or holding himself or herself out as one shall,
- (a) carry his or her licence;
  - (b) on request, identify himself or herself as a security guard; and
  - (c) on request, produce his or her licence. 2005, c. 34, s. 35 (1).

### Uniform

- (2) Subject to subsection (3), every person who is acting as a security guard or holding himself or herself out as one shall wear a uniform that complies with the regulations. 2005, c. 34, s. 35 (2).

### Exception

- (3) Subsection (2) does not apply to a person who is,
- (a) acting as a bodyguard; or
  - (b) performing services to prevent the loss of property through theft or sabotage in an industrial, commercial, residential or retail environment. 2005, c. 34, s. 35 (3).

Section 35 of the act talks about how security guards must carry their license with them at all times when working and must:

- Carry their license on them.
- When asked, must identify him/her self as a security guard.
- **When asked, must produce his or her license.**

The section also talks about how anyone working as a security guard must wear a uniform that complies with regulations. (more on this later on in this chapter)

### Prohibited Terms

- 40.** No private investigator, security guard or person who engages in the business of selling the services of private investigators or security guards shall use the following terms or variations of them:
1. Detective or Private Detective.
  2. Law enforcement.
  3. Police.

4. Officer. 2005, c. 34, s. 40.

Section 40 states no security guard or private investigator shall refer to themselves as:

- Detective or Private Detective
- Law enforcement.
- Police
- Officer

### **Regulations under the Private Security and Investigative Services Act**

The PSISA has various regulations that all security guards should be aware of. The regulations deal with topics such as: Uniforms, Equipment, Vehicles, and Use of Force reporting.

### **Uniforms**

#### **Security guard uniform must comply with regulation**

1. A person who is licensed as a security guard and who is required by the Act to wear a uniform when acting as a security guard or holding himself or herself out as one shall wear a uniform that complies with this Regulation when acting as a security guard or holding himself or herself out as one. O. Reg. 362/07, s. 1.

#### **Words and logos, etc.**

2. (1) The name, logo or crest of the licensee that employs the security guard must be affixed to the chest of the outermost piece of the uniform. O. Reg. 362/07, s. 2 (1).
- (2) The term “SECURITY”, “SÉCURITÉ”, “SECURITY GUARD” or “AGENT DE SÉCURITÉ”, in upper case letters not less than 1.5 centimetres high and in a colour that contrasts with the dominant colour of the uniform, must be,
  - (a) permanently affixed to the chest of the outermost piece of the uniform; and
  - (b) affixed between two and three centimetres below the name, logo or crest of the licensee that employs the security guard, if the name, logo or crest appears anywhere else on the uniform in addition to the chest of the outermost piece. O. Reg. 362/07, s. 2 (2).



- (3) The word “SECURITY” or “SÉCURITÉ”, in upper case letters not less than 10 centimetres high and in a colour that contrasts with the dominant colour of the uniform, must be permanently affixed to the back of the outermost piece of the uniform unless the outermost piece of the uniform is a shirt with a collar, a sweater, a blazer, a sports jacket or a suit jacket. O. Reg. 362/07, s. 2 (3).
- (4) Clause (2) (a) applies independently of subsection (1) and must be complied with in addition to subsection (1) even if the name, logo or crest required by subsection (1) includes a term required by clause (2) (a). O. Reg. 362/07, s. 2 (4).

**Identification:**

3. An identification tag with the security guard’s name or licence number must be affixed to the chest of the outermost piece of the uniform. O. Reg. 362/07, s. 3.

**Rank Chevrons:**

4. (1) The uniform must not have rank chevrons. O. Reg. 362/07, s. 4 (1).
- (2) Subsection (1) does not apply to a uniform worn by a licensee who is an employee of a non-profit organization that was in existence before August 23, 2007. O. Reg. 362/07, s. 4 (2).

**Shirts:**

5. If the uniform includes a shirt with a collar, the shirt must not be black or navy blue. O. Reg. 362/07, s. 5.

**Trouser stripes:**

6. The trousers must not have stripes, other than reflective safety stripes, down the side. O. Reg. 362/07, s. 6.

**Hats:**

7. The uniform must not include a police-style forage cap. O. Reg. 362/07, s. 7.

**Employer Oversight:**

8. A licensed business entity shall ensure that the individual licensees employed by it comply with this Regulation. O. Reg. 362/07, s. 8.

*Points to remember:*

- A security guard must wear a uniform that meets requirement.

- The word Security and or Security Guard and the Employers name must be present on the uniform.
- An Identification Tag must be worn on the most outer piece of the uniform.
- Uniforms must not have any rank chevrons, shirts cannot be black or navy blue, pants must not have stripes along the side of them, unless they are reflective, and any hats issued can not be a police-style forge cap.

## **Equipment**

### **Batons**

2. (1) An individual licensee may use a baton in the provision of private investigator or security guard services only if the following conditions are met:
  1. The baton is issued to the individual licensee by the licensed or registered business entity that employs the individual licensee.
  2. The individual licensee may use the baton for defensive purposes only. O. Reg. 366/07, s. 2 (1).
- (2) A licensed business entity shall carry insurance to cover the risks associated with its employees carrying batons. O. Reg. 366/07, s. 2 (2).

### **Handcuffs**

3. An individual licensee may use handcuffs in the provision of private investigator or security guard services only if the handcuffs are issued to the individual licensee by the licensed or registered business entity that employs the individual licensee. O. Reg. 366/07, s. 3.

### **Restraints**

4. An individual licensee may not use cable ties or strip ties as restraints in the provision of private investigator or security guard services. O. Reg. 366/07, s. 4.

### **Oversight by employers**

5. A licensed business entity shall ensure that the individual licensees employed by it comply with this Regulation. O. Reg. 366/07, s. 5.

### *Points to remember:*

- Batons are to be issued by the employer and are only to be used for defensive purposes only.
- Handcuffs are to be issued by the employer.
- Cable ties or strip ties are not be used as restraints.



## **Vehicles**

### **Definition**

**1. In this Regulation,**

“vehicle” means,

- (a) an automobile, or
- (b) other motor vehicle with at least four wheels and a truck or delivery body permanently attached to it. O. Reg. 364/07, s. 1.

### **Licensee Must Comply With Regulations:**

**2. A licensee shall not use a vehicle in the provision of security guard services that is not in compliance with this Regulation. O. Reg. 364/07, s. 2.**

### **Marked Vehicles**

- 3. (1) If a vehicle is marked as being a vehicle used in the provision of security guard services, it must comply with the requirements of this section. O. Reg. 364/07, s. 3 (1).**
- (2) The word “SECURITY” or “SÉCURITÉ”, in upper case letters, must be prominently displayed in a colour that contrasts with the colour of the vehicle,
- (a) on both sides of the vehicle, in letters not less than 10 centimetres high; and
  - (b) on the front and back of the vehicle, in letters not less than 8 centimetres high. O. Reg. 364/07, s. 3 (2).
- (3) The word “security” or “sécurité” may also appear in or as part of the licensee’s crest or logo. O. Reg. 364/07, s. 3 (3).
- (4) The vehicle must not have any red, blue, gold or yellow stripes or any combination of red, blue, gold or yellow stripes, except as part of the licensee’s crest or logo. O. Reg. 364/07, s. 3 (4).

### **Prohibited Vehicle Markings**

- 4. A vehicle must not have the following terms, or any variations of them, displayed anywhere on it:**
- 1. Detective or Détective.
  - 2. Private detective or Détective privé.
  - 3. Police.
  - 4. Officer or agent de police.

5. Law enforcement or exécution de la loi. O. Reg. 364/07, s. 4.

This regulation covers specific markings and colours for vehicles being used for security purposes. It also covers what markings a vehicle can not have.

**Reporting Use of Force:**

4. With respect to all private investigator and security guard services provided by the licensed business entity,
- iii. a use of force report, in the form approved by the Registrar, for every instance that a private investigator or security guard employed by the licensed business entity used handcuffs, a baton, a firearm or any other weapon or otherwise used force in the course of that employment, and
  - iv. a use of force report, in the form approved by the Registrar, for every instance that a dog used in the provision of private investigator or security guard services attacks a person.

This Regulation is found under the Record-keeping Requirements for Licensed Business Entities. Section iii tells us that a use of force report must be kept for any instance that a guard uses handcuffs, baton, firearm, or force.

**Code of Conduct**

In Ontario, there is now a professional Code of Conduct that all security guards, private investigators and licensed businesses must abide by.

**Code of Conduct**

**Breach:**

1. A licensee is in breach of the code of conduct if the licensee contravenes or fails to comply with this Regulation. O. Reg. 363/07, s. 1.

**Individual licensees**

2. (1) Every individual licensee, while working as a private investigator or security guard, shall,
  - (a) act with honesty and integrity;

- (b) respect and use all property and equipment in accordance with the conditions of his or her licence;
  - (c) comply with all federal, provincial and municipal laws;
  - (d) treat all persons equally, without discrimination based on a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;
  - (e) refrain from using profane, abusive or insulting language or actions or actions that are otherwise uncivil to any member of the public;
  - (f) refrain from exercising unnecessary force;
  - (g) refrain from behaviour that is either prohibited or not authorized by law;
  - (h) respect the privacy of others by treating all information received while working as a private investigator or security guard as confidential, except where disclosure is required as part of such work or by law; and
  - (i) co-operate with police where it is required by law. O. Reg. 363/07, s. 2 (1).
- (2) No individual licensee shall,
- (a) be unfit for duty, while working, through consumption of alcohol or drugs;
  - (b) conspire with another person or aid or abet another licensee in a breach of this code of conduct;
  - (c) wilfully or negligently make a false statement or complaint against another licensee; or
  - (d) misrepresent to any person the type, class or conditions of his or her licence. O. Reg. 363/07, s. 2 (2).
- (3) Clause (2) (d) does not apply to an individual licensee who is concealing his or her identity as a private investigator or security guard in order to carry out his or her duties. O. Reg. 363/07, s. 2 (3).

### **Licensed Business Entities**

3. (1) Every licensed business entity and every officer, director, partner and sole proprietor of a licensed business entity shall, in the course of conducting the licensed business,
- (a) comply with all federal, provincial and municipal laws;
  - (b) treat all persons equally, without discrimination based on a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;

- (c) respect the privacy of others by treating all information received in the course of conducting the licensed business as confidential, except where disclosure is required for conducting the licensed business or by law; and
  - (d) co-operate with police where it is required by law. O. Reg. 363/07, s. 3 (1).
- (2) No licensed business entity and no officer, director, partner and sole proprietor of a licensed business entity shall,
- (a) conspire with another person or aid or abet another licensee in a breach of this code of conduct;
  - (b) wilfully or negligently make a false statement or complaint against another licensee; or
  - (c) misrepresent to any person the type, class or conditions of the licensee's licence. O. Reg. 363/07, s. 3 (2).

The Code of Conduct is in place to maintain professionalism in the security industry. The ministry has created these rules and regulations that a security guard must follow. Security guards be found to be in breach of the code can be subject to a fine or immediate suspension of their Security/Private Investigators License. A security guard needs to be extremely familiar with the code of conduct, in particular section 2 of the code, which talks about licensed individuals and the rules they must follow.

### **Complaints:**

If a member of the public has a complaint about a security guard, private investigator or licensed business, they may file a complaint with the registrar of the Private Security and Investigative Services Branch. All complaints must be in writing, signed by the complainant and filed with the registrar within 90 days of the incident/occurrence. The registrar is responsible for investigating all complaints that have merit and are made in good faith.

### **Definition of a Complaint**

In accordance with section 19 (1) of the *Private Security and Investigative Services Act*, the Registrar may receive a complaint from any person alleging that a licensee has:

- Breached the code of conduct established under the regulations, or
- Failed to comply with the Act or the regulations, or
- Breached a licence condition.

*Excerpt from the PSISA:*

### **Section 19 (1)**

The Registrar may receive a complaint from any person alleging that a licensee has breached the code of conduct established under the regulations or alleging that a licensee has failed to comply with this Act or the regulations or has breached a condition of a licence. 2005, c. 34, s. 19 (1).

### **Penalties:**

If an individual or a business entity is found to be in breach of the Private Security and Investigative Services Act they will be subject to penalties. *This also includes violations of the code of conduct and other regulations that fall under the act.*

### **Individuals**

Convicted individuals of an offence under the Act are liable to a fine of not more than \$25,000, imprisonment for a term of not more than one year, or both.

### **Business Entity**

Any business entity convicted of an offence under the Act is liable to a fine of not more than \$250,000.

## **Chapter 3**

### **Basic Security Procedures**

Security guards need to respond to changes in their environment which includes actions such as traffic movement, ensuring the safety of persons between and within locations monitoring and managing the access and departure of persons and vehicles and observing and monitoring people. Security guards need to be aware of correct way to deal with these situations.