

RSNL1990 CHAPTER P-24

PRIVATE INVESTIGATION AND SECURITY
SERVICES ACT

Amended:

1995 cA-5.1 s13; 1996 cR-10.1 s57; 2006 c40 s21; 2007 c13

CHAPTER P-24

AN ACT RESPECTING PRIVATE INVESTIGATION AND SECURITY SERVICES

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Short title

1. This Act may be cited as the *Private Investigation and Security Services Act*.

1981 c30 s1

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Definitions

2. In this Act

(a) "administrator" means the Administrator of Private Investigation and Security Services appointed under section 3;

(b) "agency" means a private investigation agency, security guard agency, security consulting agency or burglar alarm agency;

(c) "agent" means a private investigator, an armoured vehicle guard, a security consultant or a burglar alarm agent;

(c.1) "armoured vehicle guard" means a person who guards or transports valuable property in an armoured vehicle whether or not the property is owned by his or her employer;

(d) "branch office" includes a place at which the public is invited to deal in respect of the services provided by the agency;

(e) "burglar alarm agency" means the business of selling, providing, installing or servicing burglar alarm systems or of monitoring a signal from premises protected by a burglar alarm system or of providing the services of burglar alarm agents;

(f) "burglar alarm agent" means a person who sells, installs, services, tests or patrols a burglar alarm system or acts as an operator to receive signals or responds in person to alarm warnings of a burglar alarm system;

(g) "burglar alarm system" means a system consisting of a device to provide warnings against intrusion, including burglary, robbery, theft or vandalism, or attempted burglary, robbery, theft or vandalism;

(h) "firearm" means firearm as defined in Part III of the *Criminal Code*;

(i) "licence" means a valid licence issued under this Act;

(j) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;

(k) "peace officer" means

- (i) a member of the Royal Newfoundland Constabulary,
 - (ii) a member of the Royal Canadian Mounted Police Force stationed in the province under a contract between the Government of Canada and the government of the province, and
 - (iii) a municipal enforcement officer appointed under the *Municipalities Act* or another Act incorporating or continuing a municipality;
- (l) "private investigation agency" means the business of providing the services of private investigators;
- (m) "private investigator" means a person who, for hire or reward, investigates and provides information, and includes a person who,
- (i) searches for and provides information as to the personal character or actions of a person, or the character or kind of business or occupation of a person,
 - (ii) searches for offenders against the law,
 - (iii) searches for missing persons or property,
 - (iv) performs shopping or other services in civilian or plain clothes for a client for the purpose of reporting to the client upon the conduct, integrity or trustworthiness of his or her employees, or
 - (v) provides services in civilian or plain clothes for the prevention or detection of shoplifting;
- (n) "security consultant" means a person who, for hire or reward, advises and consults on security systems for premises or other property and does not otherwise act as a private investigator, security guard, armoured vehicle guard or burglar alarm agent and includes a person who inspects premises or other property for devices capable of intercepting private communications;
- (o) "security consulting agency" means the business of providing the services of security consultants;
- (p) "security guard" means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property and includes a person who,
- (i) on behalf of his or her employer, supervises and inspects security guards while they are guarding or patrolling, or
 - (ii) [Rep. by 2007 c13 s1]
 - (iii) accompanies a guard dog while the dog is guarding or patrolling; and
- (q) "security guard agency" means the business of providing the services of security guards, guard dogs or armoured vehicle guards.

1981 c30 s2; 1988 c35 s443(16); 2006 c40 s21; 2007 c13 s1

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Administrator and deputy administrator

3. (1) There shall be an Administrator of Private Investigation and Security Services appointed by the minister to exercise the powers and duties conferred or imposed by this Act.

(2) There may be a Deputy Administrator of Private Investigation and Security Services appointed by the minister to help the administrator and who, in the absence of the administrator, shall have the powers and authority of and perform the duties of the administrator.

1981 c30 s3

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Register

4. The administrator shall keep a register in which he or she shall maintain a list of the names and addresses of agents and agencies to whom licences have been issued under this Act.

1981 c30 s4

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Exemptions from Act

5. (1) This Act does not apply to

(a) barristers or solicitors in the practice of their profession or the permanent employees of those barristers or solicitors in that practice;

(b) persons who search for and provide information

(i) as to the financial credit rating of persons,

(ii) to employers as to the qualifications and suitability of their employees or prospective employees, or

(iii) as to the qualifications and suitability of applicants for insurance and indemnity bonds,

and who do not otherwise act as private investigators;

(c) members of The Canadian Corps of Commissionaires while acting within the objects of its incorporation;

- (d) a person who is acting as a peace officer;
 - (e) insurance adjusters and their employees licensed under the *Insurance Adjusters Act* while acting in the usual and regular scope of their employment or the permanent employees of the adjusters while so acting;
 - (f) insurers licensed under the *Insurance Companies Act* while acting in the usual and regular scope of their employment or the permanent employees of the insurers while so acting;
 - (g) permanent officers or employees of a municipal authority as defined in the *Department of Municipal and Provincial Affairs Act* while so engaged in the performance of their duties;
 - (h) persons living outside the province who are employees in good faith of private investigation or security guard agencies licensed or registered in a jurisdiction outside the province who
 - (i) on behalf of an employer or client who lives outside the province, make an investigation or inquiry partly outside the province and partly within the province, and
 - (ii) come into the province solely for the purpose of the investigation or inquiry;
 - (i) a person who sells or provides a burglar alarm system where no survey or inspection of the premises to be protected by the system is carried out by his or her agent or employee and the person does not install, service, test, monitor or patrol the system;
 - (j) a person who is not in the employ of a burglar alarm agency and who
 - (i) installs a burglar alarm system where specialized and final connections necessary to make the system operable are made by a licensed burglar alarm agent on the direction of his or her agency employer, or
 - (ii) acts as an operator to receive a signal from a burglar alarm system where the service is provided without remuneration; and
 - (k) a person or class of persons exempted by the regulations.
- (2) An agent who is permanently employed by 1 employer in a business or undertaking other than the business of providing services of agents and whose work is confined to the affairs of that employer is not required to be licensed under this Act.

1981 c30 s5

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Agency

6. A person shall not carry on or hold himself or herself out as carrying on the business of an agency unless the person holds a licence to do so.

1981 c30 s6

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Branch office

7. A branch office of an agency shall not be opened or operated unless the person who carries on the business of the agency holds a licence to operate the branch office.

1981 c30 s7

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Agent

8. A person shall not act or hold himself or herself out as acting as an agent unless the person holds a licence to so act and is the employee of an agency licensed to carry on the business of providing the services of an agent.

1981 c30 s8

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Employment requirement

9. (1) A person who holds a licence to carry on business as an agency shall not employ as an agent a person who does not hold a licence to act as an agent.

(2) Notwithstanding subsection (1), a security guard agency may employ as a security guard a person who meets the requirements of this Act and any terms and conditions prescribed by the minister in the agency's licence.

2007 c13 s2

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Agency licence

10. (1) A person is not eligible to hold a licence to carry on the business of an agency unless

(a) the person is a Canadian citizen or person with the status of a landed immigrant;

(b) where the person is a corporation, a majority of the members of the board of directors are Canadian citizens or persons lawfully admitted to Canada for permanent residence or ordinarily resident in Canada ; and

- (c) the person who will manage the business is ordinarily resident in Canada

(2) Notwithstanding subsection (1), where a person has been issued a licence to carry on the business of an agency, he or she is not eligible to hold the licence unless, in the opinion of the administrator, within a reasonable period of time of the issuing that person operates in the province for the agency an office approved by the administrator.

1981 c30 s10; 1995 cA-5.1 s13

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Requirements

11. (1) A person is not eligible to hold a licence as an agent unless that person

- (a) is a Canadian citizen; and
- (b) is 19 years of age or over.

(2) A person may not be employed as a security guard by a licensed security guard agency unless that person

- (a) is a Canadian citizen; and
- (b) is 19 years of age or over.

1981 c30 s11; 2007 c13 s3

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Criminal conviction

12. A person shall not hold a licence as an agent or be employed as a security guard in a licensed security guard agency where the person has been found guilty or convicted of an offence under the *Criminal Code* that the administrator considers relevant to his or her fitness to act as an agent or security guard and a pardon has not been granted in respect of the discharge or conviction.

2007 c13 s4

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Manner of application

13. (1) An applicant for a licence or renewal of a licence shall apply to the administrator for the licence.

(2) Where a person wishes to act as an agent otherwise than as an employee of an agency, he or she shall be considered to be an agency and to be an employee of the agency and shall not act as an agent unless licensed as an agency and as an agent.

1981 c30 s13

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Application requirements

14. An application for a licence under section 13 shall be in the prescribed form and accompanied by the prescribed fee and, in the case of an agency, shall be accompanied by proof of liability insurance in the prescribed amount and a bond in the prescribed amount and form.

1981 c30 s14

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Issue of licence

15. (1) The administrator may, upon receipt of an application for a licence and upon the inquiry and investigation that he or she considers necessary, issue a licence where

(a) the applicant meets the prescribed qualifications including in the case of an agent the successful completion of a prescribed training program; and

(b) in the administrator's opinion it is in the public interest to do so.

(2) The administrator may issue a licence under subsection (1) subject to the terms and conditions that he or she considers appropriate and may remove or alter those terms and conditions.

(3) The administrator shall require that a person of a prescribed class who holds a licence as an agency under this Act be a member of an association incorporated for the purposes in relation to that prescribed class as a condition of holding that licence.

(4) Notwithstanding subsection (3), where an agency is refused membership in the association referred to in subsection (3), the administrator may issue a licence to that agency where that agency meets other conditions and requirements of this Act and the regulations in relation to the licence.

(5) Where an agency is issued a licence under subsection (4), that agency shall immediately apply, notwithstanding a previous application having been made, to be a member of the association referred to in subsection (3).

1981 c30 s15

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Term of licence

16. Unless sooner suspended or cancelled a licence expires after the prescribed period from the date of its issue.

1981 c30 s16

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Death of agency licensee

17. (1) Where a person who is licensed to carry on the business of an agency dies, the administrator may grant to his or her executor or administrator an interim licence for the agency and licensed employees of the deceased licensee at the time of the death shall be considered to be licensed as employees of the executor or administrator.

(2) An interim licence issued under subsection (1) expires at the end of the term specified in the licence.

1981 c30 s18

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Renewal

18. (1) An applicant for renewal of a licence shall apply to the administrator under this Act and the regulations not less than 30 days before the expiry of the licence.

(2) Where an applicant for renewal of a licence applies in compliance with subsection (1), the existing licence is considered not to have expired until the applicant has received the decision of the administrator on his or her application for renewal.

1981 c30 s19

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Issue of renewal

19. (1) The administrator may, upon receipt of an application for renewal of a licence and upon the inquiry and investigation that he or she considers necessary, issue or refuse to issue a renewal where in the administrator's opinion it is in the public interest to do so.

(2) The administrator may issue a renewal of a licence under subsection (1) subject to those terms and conditions that he or she considers appropriate and may remove or alter those terms and conditions.

1981 c30 s20

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Suspension or cancellation

20. (1) The administrator may suspend or cancel a licence where satisfied that the licensee

- (a) has failed to comply with or has contravened this Act or the regulations;
- (b) has failed to comply with or has contravened a term, condition or restriction to which the licensee's licence or a bond given under this Act is subject;
- (c) has made a material misstatement in an application for licence or in the information or material submitted by the licensee to the administrator or other person under this Act or the regulations;
- (d) has been guilty of misrepresentation, fraud or dishonesty; or
- (e) should not for another reason, in the opinion of the administrator, be permitted to hold a licence.

(2) Where a licence has been suspended or cancelled under this Act, the holder of the licence shall immediately return the licence to the administrator.

(3) The administrator may reinstate a suspended or cancelled licence for a reason that appears to be adequate, including the meeting of a deficiency or remedying of a default by the person concerned, because of which the licence was suspended or cancelled.

1981 c30 s21

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Duty of licensee

21. (1) A person licensed to carry on the business of an agency shall within 5 days notify the administrator in writing of

- (a) a change in the address of his or her office or a branch of it;
 - (b) a change in the officers, directors or members in the case of an association of individuals, partnership or corporation;
 - (c) a termination of employment of an individual licensed under this Act;
- and
- (d) a change affecting the management of the business.

(2) Where a person licensed to carry on the business of an agency or to act as an agent has been charged with an offence under the *Criminal Code* or under this Act,

that person shall immediately notify the administrator in writing of the charge and the particulars of it.

(3) A person licensed to act as an agent shall within 5 days notify the administrator in writing of a change in address.

(4) Where a person licensed to act as an agent has had his or her employment terminated, the holder of the licence shall immediately return the licence to the administrator.

1981 c30 s22

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Termination of agency

22. A person who is licensed to carry on a business of an agency shall return the agency licence to the administrator immediately upon the termination of the business of the agency.

1981 c30 s23

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Agency name

23. A person shall not carry on the business of an agency in a name other than that in which he or she is licensed.

1981 c30 s24

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Further information

24. The administrator may, for the purposes of this Act, require further information or material to be submitted within a specified time by an applicant, licensee or other person, and he or she may require verification or otherwise of information or material then or previously submitted.

1981 c30 s25

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Investigation

25. (1) A person authorized by the administrator in writing or a peace officer or the administrator may investigate and inquire into a matter the investigation of which the administrator or peace officer considers expedient for the administration and enforcement of this Act.

(2) A person making an investigation under and for the purposes of this Act has the powers of a commissioner under the *Public Inquiries Act*.

1981 c30 s26

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Production of books, etc.

26. The person making an investigation under section 25 may at reasonable times enter upon premises and demand the production of and inspect the books, documents, papers, correspondence and records of the person in respect of whom the investigation is being made, and a person who has the custody, possession or control of the books, documents, papers, correspondence or records shall produce them and permit the inspection of them by the person making the investigation.

1981 c30 s27

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Certificate of administrator

- 27.** A certificate signed by the administrator stating that on a specified day
- (a) a person named in the certificate was or was not licensed under this Act;
 - (b) a licence was issued to a person; or
 - (c) the licence of a person was suspended, cancelled or reinstated,

is admissible, in the absence of evidence to the contrary, as proof of the facts stated in the certificate.

1981 c30 s28

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Licensee not collector

28. A licensee shall not act as a collector of accounts or undertake, or hold himself or herself out or advertise as undertaking to collect accounts for a person either with or without remuneration.

1981 c30 s29

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Expression prohibited

29. A person engaged in a business or employment, whether licensed under this Act or otherwise, shall not use the expression "private detective" in connection with the business or employment or hold himself or herself out as a private detective.

1981 c30 s30

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Private investigator

30. (1) A private investigator, while acting as a private investigator, shall not wear a uniform or carry or display a badge, shield, card or other evidence of authority except the licence issued to him or her under this Act and a business card containing no reference to licensing under this Act.

(2) A licensed private investigator, while acting as a private investigator, shall carry on his or her person the licence issued to him or her under this Act and shall produce it for inspection at the request of a person.

(3) A licensed private investigator who is also employed as a security guard or an armoured vehicle guard by a licensed security guard agency shall not act as a private investigator while in uniform.

(4) A licensed private investigator shall not seek or accept employment with more than 1 private investigation agency at one time.

1981 c30 s31; 2007 c13 s5

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Uniform required

31. (1) A security guard and an armoured vehicle guard shall wear a uniform that is required by the regulations while acting as a security guard or an armoured vehicle guard.

(2) An armoured vehicle guard, while acting as an armoured vehicle guard, shall carry on his or her person the licence issued to him or her under this Act.

2007 c13 s6

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Burglar alarm agent

32. (1) A burglar alarm agent who installs, services, tests or patrols a burglar alarm system, or who responds to an alarm warning from a burglar alarm system, shall, while acting as a burglar alarm agent, wear a uniform that is required by the regulations.

(2) A licensed burglar alarm agent, while acting as a burglar alarm agent, shall carry on his or her person the licence issued to him or her under this Act and shall produce it for inspection at the request of a person.

(3) A burglar alarm agent, while acting as a burglar alarm agent, shall not carry or display evidence of authority except his or her uniform and the licence issued to the agent under this Act.

1981 c30 s33

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Burglar alarm system

33. (1) A burglar alarm system that is installed by an agency shall be comprised of the components and materials and shall be designed and installed in the prescribed manner.

(2) Where a burglar alarm system installed by an agency before the regulations come into force is not in conformity with them, the regulations may provide that the owner of the system shall bring the system into conformity on or before a prescribed date.

(3) An agency that services, tests or monitors a burglar alarm system shall service, test or monitor the system in the prescribed manner.

1981 c30 s34

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Restriction re peace officer

34. (1) A peace officer or a person specified in the regulations shall not act as an agent or be eligible for licensing under this Act.

(2) An agent shall not

(a) whether by agreement with the council of a municipality or otherwise, act as a member of a police force or as a municipal enforcement officer or perform the duties of a peace officer or municipal enforcement officer; or

(b) hold himself or herself out as providing the services or duties of or connected with police or as performing services or duties as a peace officer.

(3) Subsection (2) shall not be interpreted so as to restrict an agent from acting under a contract to collect money from parking meters.

(4) An agent shall not exercise, and is not given under this Act, rights or powers other than those that a member of the public has under the law.

(5) This section shall also apply to a security guard employed by a security guard agency licensed under this Act.

1981 c30 s35; 2007 c13 s7

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Firearms prohibited

35. (1) A person acting as an agent may not carry or use a firearm unless that agent is an armoured vehicle guard described in a prescribed class and the administrator in his or her discretion has authorized the carriage or use.

(2) A security guard may not carry or use a firearm.

1981 c30 s36; 2007 c13 s8

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Disclosure of information

36. (1) A person carrying on the business of an agency shall not divulge information acquired by that person in the course of the business to a person other than the client of the agency for whom the information was obtained, employees of the agency or otherwise as required by law.

(2) An agent shall not divulge information acquired by him or her in the course of the agent's employment other than to an employer, other employees of the employer or the client for whom the information was obtained or otherwise as required by law.

(3) A person employed by an agency in a capacity other than as an agent shall not divulge information acquired by him or her in the course of the person's employment other than to an employer or otherwise as required by law.

1981 c30 s37

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Appeal to minister

37. (1) Where the administrator has refused to issue or renew or has suspended or cancelled a licence, he or she shall inform the applicant or licensee that the applicant or licensee is entitled to appeal to the minister if the applicant or licensee delivers to the minister and administrator a request for an appeal within 30 days of the refusal, suspension or cancellation.

(2) In reviewing the refusal of the administrator to issue or renew a licence or the suspension or cancellation of a licence, the minister may appoint an advisory board consisting of 3 persons, at least 1 of whom shall be the holder of a licence, which

shall hold hearings and make reports to the minister with the recommendations that it considers appropriate.

(3) The minister shall, before making a decision respecting the licence matter under review, consider, but is not bound by, the reports and recommendations of the advisory board.

1981 c30 s38

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Appeal to court

38. (1) Where a person is dissatisfied with a decision of the minister respecting the issue, renewal, suspension or cancellation of a licence, the person may appeal to a judge of the Trial Division.

(2) Where a person proposes to appeal under subsection (1), he or she shall, within 30 days after the decision of the minister from which the person proposes to appeal, serve on the Deputy Minister of Justice and administrator a written notice of intention to appeal.

(3) A notice of appeal served under subsection (2) shall be signed by the appellant or by his or her solicitor or agent, and, in the notice, the grounds of the appeal shall be set out; and the appellant shall file a copy of the notice in the Registry of the Supreme Court.

(4) The appellant shall, not less than 14 days before the hearing of the appeal, serve upon the Deputy Minister of Justice and administrator a written notice of the day appointed for the hearing.

(5) The judge shall hear the appeal and the evidence brought forward before him or her by the appellant and the Crown in a summary manner and shall decide the matter of the appeal.

(6) The minister shall produce before the judge on the hearing of the appeal papers and documents in his or her possession affecting the matter of the appeal.

1981 c30 s39; 1986 c42 Sch B

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Offences

39. (1) A person who

(a) knowingly provides false information in an application under this Act or in a statement, form, return, information or material provided or submitted under this Act or the regulations;

(b) fails to comply with an order, direction or other requirements made under this Act or the regulations; or

(c) contravenes this Act or the regulations,

is guilty of an offence and is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than 1 year, or to both a fine and imprisonment.

(2) A prosecution under this Act or the regulations shall not be started or process served later than 1 year after the alleged offence was committed.

1981 c30 s40

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Regulations

40. (1) The Lieutenant-Governor in Council may make regulations

(a) exempting persons or classes of persons from this Act or the regulations in addition to those exempted under section 5;

(b) prescribing classes of licences and the terms and conditions to which each class is subject;

(c) governing applications for licences and for renewals;

(d) providing for the expiration and renewal of licences;

(e) [Rep. by 1996 cR-10.1 s57]

(f) requiring agents and agencies or a class of them to have and maintain a bond in the amount, form and terms and with collateral security that are prescribed and providing for the forfeiture or cancellation of bonds, the disposition of the proceeds and the period that bonds shall exist and respecting matters subsequent to forfeiture or cancellation;

(g) governing the form and content of advertising by agencies;

(h) regulating the management and operation of offices of agencies or branches of them and requiring approval of them by the administrator;

(i) requiring and governing the books, accounts and records relating to compliance with this Act that shall be kept by agencies;

(j) governing the uniforms, badges and insignia that shall be worn by security guards, armoured vehicle guards and burglar alarm agents and requiring their approval by the administrator and prohibiting the wearing of uniforms, badges and insignia not so approved;

- (k) regulating or prohibiting the use of equipment by agents or certain classes of agents;
- (l) governing the insignia and markings that may be used on vehicles and requiring approval of them by the administrator and prohibiting the use of insignia and markings not so approved;
- (m) prescribing records required to be kept by an agency with respect to its employees and the business of the agency;
- (n) requiring agencies to make returns and provide information to the administrator;
- (o) [Rep. by 1996 cR-10.1 s57]
- (p) [Rep. by 1996 cR-10.1 s57]
- (q) prescribing grounds for the refusal to issue, renew or the suspension or cancellation of licences in addition to those grounds mentioned in this Act;
- (r) prescribing courses of training and educational requirements for the licensing of persons;
- (s) prohibiting or regulating and controlling the use of guard dogs;
- (t) prescribing the design of a burglar alarm system, and the manner in which the system is to be installed, serviced, tested and monitored, and providing for the shutting down of a burglar alarm system where circumstances that may be prescribed exist;
- (u) prohibiting or regulating and controlling the use of automatic telephone dialing devices and taped messages to inform police of alarm warnings from a burglar alarm system;
- (v) governing the method of terminating the business of an agency;
- (w) requiring agencies or a class of them to have and maintain liability insurance and prescribing the amount of it; and
- (x) prescribing a matter that by this Act is required or permitted to be or referred to as prescribed by the regulations.

(2) A regulation may adopt by reference, in whole or in part, with the changes that the Lieutenant-Governor in Council considers necessary, a code, standard or procedure.