

# **LAW FOR THE PRIVATE GUARDING ACTIVITY**

*Prom. SG. 15/24 Feb 2004, amend. SG. 105/29 Dec 2005, amend. SG. 30/11 Apr 2006, amend. SG. 34/25 Apr 2006, amend. SG. 82/10 Oct 2006*

## **Chapter one. GENERAL PROVISIONS**

Art. 1. This law settles the public relations in connection with the private guarding activity, its administrative regulation and control.

Art. 2. (1) Private guarding activity is an activity related to guarding sites, events and persons, their rights and legal interests against illegal encroachment.

(2) The activity under para 1 shall be carried out by entrepreneurs registered by the order of the Commercial Law, on the grounds of a written contract or by units for self-defence in the structures of sole entrepreneurs and corporate bodies.

Art. 3. The private guarding activity shall be carried out by observing the following principles:

1. respect for the rights, freedoms and dignity of the citizens;
2. interaction with the Bodies of the Ministry of Interior (MI) in the fight against crime and protection of the public peace;
3. guaranteeing security and safety in the guarded sites;
4. carrying out preventive activity on the grounds of analysis of the causes for tort in the guarded sites.

Art. 4. (1) Private guarding activity shall be carried out only upon obtaining a licence or registration by the order of this law.

(2) The licence may be issued for carrying out the activity on the territory of the whole country or on the territory of individual regions.

Art. 5. (1) The following kinds of activities shall be carried out by the order of this law:

1. personal guarding of individuals;
2. guarding of the property of individuals or corporate bodies;
3. guarding of events;
4. guarding of valuable consignments and cargo;
5. self protection.

(2) The activities under para 1 may also be carried out through technical systems of security and auxiliary devices.

Art. 6. The personal guarding related to the protection of the bodily inviolability of

individuals against illegal encroachment, as well as their prevention and repression.

Art. 7. (1) Guarding of the property is an activity for its physical protection against illegal encroachment.

(2) The activity of physical protection may also include introduction of admission regime on the sites.

Art. 8. The activity of guarding events is a complex of actions directed at providing the undisturbed and unimpeded holding of mass events or activities of short-term nature.

Art. 9. (1) The guarding of valuable consignments and cargo is an activity of protecting money, securities, precious metals, works of art and other valuables whose transportation is obligatorily carried out with armed guard, specially equipped transport vehicles, reliable connection and other technical and auxiliary protection devices.

(2) The Minister of Interior shall determine by an ordinance the order of organising the guarding of transportation of valuable consignments and cargo under para 1.

Art. 10. The guarding with technical security systems is an activity of surveillance and control by technical devices of the guarded sites and checking up the obtained results.

Art. 11. (1) Self protection is an activity carried out by employees of the entrepreneurs, separated in individual structural units for guarding their employees, sites, events, property, valuable consignments and cargo.

(2) The self protection units may not be used in any form whatsoever for guarding persons, sites and property, besides those under para 1.

Art. 12. (1) The guarding activity shall be carried out by unarmed or armed guards.

(2) Observed by the armed guards shall be the requirements of the Law for control over the explosives, firearms and munitions and the by-laws for its implementation.

## **Chapter two. LICENCE FOR CARRYING OUT GUARDING ACTIVITY AND REGISTRATION OF THE SELF PROTECTION ACTIVITY**

Art. 13. Licences for carrying out private guarding activity under art. 5, para 1, item 1 – 4 shall be issued only to entrepreneurs registered by the order of the Commercial Law.

Art. 14. Licences for carrying out private guarding activity shall be issued by the director of National Service "Police" or by persons authorised by him.

Art. 15. (1) For obtaining licence for carrying out all or individual activities according to art. 5, para 1, item 1 – 4 the entrepreneurs shall file written request to the competent body.

(2) Enclosed to the request under para 1 shall be:

1. (amend. - SG 34/06, in force from 01.10.2006) current certificate of registration in the commercial register;
  2. (amend. - SG 105/05, in force from 01.01.2006; revoked – SG 34/06, in force from 01.10.2006);
  3. (amend. - SG 105/05, in force from 01.01.2006) certificate under Art. 87, Para 6 of the Tax-insurance Procedure Code that the entrepreneur and the unlimited liable partners of a limited joint-stock company have no liabilities;
  4. declaration stating that the entrepreneur has no pecuniary liabilities to the state, established by an act of a competent body, or liabilities to insurance funds;
  5. forms of personal identification card, an identification sign or uniform clothes;
  6. document for paid duty stamp.
- (3) Besides the documents under para 2 the individuals registered as sole entrepreneurs, the members of the management body of the trade company, as well as the unlimited liable partners of a limited joint-stock company or general partnership shall additionally enclose:
1. certificate of conviction;
  2. (suppl. – SG 82/06) certificate issued by the National Investigation Service and District Directorate "Police" certifying the absence of instituted penal proceedings for deliberate crimes of general nature;
  3. (amend. – SG 82/06) declaration by the persons stating that there are no instituted pre-trial proceedings against them for a deliberate crime of general nature;
  4. medical certificate verifying that the persons do not have psychic diseases.
- (4) The circumstance under para 3, item 3 shall also be checked up ex-officio.
- (5) The licences under para 1 shall be issued in a form approved by an order of the Minister of Interior.

Art. 16. (1) The requests for issuance of licences under art. 14 shall be filed to the Director of National Service "Police".

(2) Where the filed documents are incomplete or do not meet the obligatory requirements of this law the entrepreneur shall be notified about that within 14 days from their filing.

(3) The entrepreneur shall remove the incompleteness and non-compliance of the documents or shall produce additionally the necessary documents and information within 14 days from the notification under para 2. If, within this period, the shortcomings of the request are not rectified the proceedings of issuing licence shall be terminated.

Art. 17. The competent body under art. 14 shall issue or shall refuse to issue a licence within one month from filing the request, respectively from removal of the incompleteness or non-compliance of the documents, or the filing of additionally required documents.

Art. 18. (1) The licence for carrying out activity under this law shall be issued without a term.

(2) At the end of every financial year the entrepreneurs shall file declaration that no change has occurred in the circumstances under art. 15.

(3) Stamp duty shall be collected for the issued licences in sizes determined by the

Council of Ministers.

Art. 19. (1) On losing, deforcing or destruction of the licence for carrying out guarding activity the entrepreneur, within 7 days from occurrence of the circumstance, shall notify the body having issued it, describing the circumstances of this happening.

(2) The body having issued the licence, within 14 days from the notification, shall issue a duplicate of the document for which a stamp duty shall be collected of size determined by the Council of Ministers.

Art. 20. The entrepreneurs shall be obliged, within 14 days, to notify the body having issued the licence about a change of the circumstances under art. 15 and art. 27, para 1.

Art. 21. (1) Licence shall not be issued and the issued licence shall be withdrawn where:

1. the entrepreneur:

a) has monetary liability to the state, established by an act of a competent body, or liabilities to insurance funds, unless the competent body has admitted deferring or postponement of the liabilities;

b) has been declared bankrupt;

c) carries out a kind of guarding activity for which he has no licence or carries it out outside the territory for which he has a licence;

d) submits to the guards employed by him firearms without possessing a respective permit for carrying and using;

2. the sole entrepreneur, the manager or the member of the managing body or the unlimited liable partner of a limited joint-stock company or general partnership:

a) has been convicted for a deliberate crime of general nature;

b) instituted against him has been prosecution for deliberate crime of general nature;

c) suffers from a psychic disease;

3. the head of the guarding activity or the guarding employees appointed by him do not meet the requirements of art. 27, para 1.

(2) The issued licence shall not be withdrawn if, within one month, the entrepreneur removes the admitted offences of art. 27, para 1.

(3) On withdrawal of the licence the persons under para 1 may not apply for issuance of a new licence for a period of one year from the withdrawal, and on refusal to issue licence the term shall be 6 months.

Art. 22. (amend. - SG 30/06, in force from 12.07.2006) The refusal to issue licence and its withdrawal may be appealed in court through the body having issued the act within 14 days by the order of the Administrative procedure code.

Art. 23. (1) (amend. – SG 82/06) For registration of activity of self protection the persons shall notify the respective director of District Directorate "Police" at the place of carrying out the activity, enclosing:

1. description of the self protecting activity;

2. kind of the guarding activity under art. 12;
  3. list of the employees to carry out the activity of self protection, and in the cases of armed defence – copy of their permits for carrying and using firearms according to the Law for control over the explosives, firearms and munitions;
  4. samples of the personal identification card, identification sign or uniform clothes.
- (2) For a change of the circumstances under para 1 and on termination of the activity of self protection the persons shall notify about that the competent body within 14 days.

### Chapter three. RIGHTS AND OBLIGATIONS OF THE PERSONS CARRYING OUT PRIVATE GUARDING ACTIVITY AND OF THEIR EMPLOYEES

Art. 24. (1) In organising the guarding the persons carrying out activity under art. 5 shall:

1. assess the condition and the degree of security of the guarded sites where necessary, but not less than once a year;
2. create the necessary organisation of guarding and safety, including through an obligatory daily and periodical instructions of the guards;
3. work out and store rules and instructions for the specifics of the kinds of guarding activity carried out, approved by the assignor under the contract or by a representative authorised by him.

(2) For each site under guard the persons carrying out activity under art. 5 shall work out and store a plan for guarding of the site, including:

1. the particularities of the guarded site;
2. the organisation of the guards (posts, routes, shifts, armament, communications and instructions for the tactics of action in different situations);
3. data for the weapons, if used for the guarding of the site;
4. data for the motor vehicles, if used in carrying out the guarding;
5. data for fixing video cameras, as well as similar technical devices or systems allowing video recording;
6. regulations for the admission regime approved by the assignor under the contract for guarding or by a person authorised by him;
7. a list and a time-table for the work of the guards.

(3) (amend. – SG 82/06) Within 14 days from the factual receiving of the site for guarding according to the contract, or from removal of the guards, the persons carrying out activity under art. 5, item 1 – 4 shall notify the body having issued the licence and the respective District Directorate "Police" on whose territory the activity is carried out.

Art. 25. Prohibited to persons carrying out activity under art. 5 shall be:

1. to introduce and use, in carrying out the activity, methods or devices exposing to danger the life and the health of other persons or derogating the honour and the dignity of the citizens;
2. to accept the fulfilment of obligations contradicting to a law or another normative act;
3. to use uniform clothes, symbols and identification signs, police lamps, camouflage

hoods or signs introduced for structural units of MI or for other state bodies and indicating belonging to them;

4. to submit or cede to other persons their licence for carrying out private guarding activity.

Art. 26. The persons carrying out private guarding activity shall be obliged to submit to the bodies of MI, and for the guarded sites of the Ministry of Defence and of the Bulgarian army – to service "Security – military police and military counter intelligence" the information they have regarding perpetrated, perpetrating or prepared criminal activity.

Art. 27. (1) The persons carrying out activity under art. 5 may appoint as chiefs of the guarding activity only adult and able-bodied persons, having graduated high school, and as guards – adult and able-bodied persons with educational degree not lower than middle school, who:

1. are Bulgarian citizens;
2. have not been convicted for deliberate crime of general nature;
3. no criminal proceedings for perpetrated deliberate crime of general nature has been instituted against them;
4. do not suffer from a psychic disease;
5. are psychologically fit to carry out private guarding activity, established by an institution specialised for the purpose.

(2) The tests for psychological fitness for carrying out private guarding activity shall be carried out by the Institute of Psychology of MI, by the psychologists at the regional (city) dispensaries for psychic diseases, by other medical establishments employing psychologists, as well as by specialised agencies for psychological selection. When the conclusion for the psychological fitness for carrying out private guarding activity is issued by the Institute of Psychology of MI a fee shall be collected of size determined by the Council of Ministers.

(3) (amend. – SG 82/06) Within 7 days from the factual occupation of the position the persons carrying out activity under art. 5 shall notify about that the competent body having issued the licence or made the registration, stating the full name, unified citizen code (UCC), the number of the employment contract and its term. Within the same period the competent body shall also be notified about termination of the legal terms of employment. The notification shall be made through the director of the respective District Directorate "Police" on whose territory work the persons under para 1.

(4) The persons carrying out activity under art. 5 shall store and, upon request, submit for inspection to the competent bodies the documents under para 1 and 3.

Art. 28. (1) The persons carrying out activity under art. 5 shall organise the training of their employees.

(2) The employees shall carry out activity of guarding or self protection only after successfully passing a course of initial training.

(3) The training under para 1 shall be carried out on the grounds of an educational programme including obligatorily a programme minimum, worked out by the Academy of MI and approved by the director of National Service "Police".

(4) The employees shall also undergo additional training depending on the kind of the

guarding activity, the specifics of the guarded site, the degree of the risk, the requirements of the assignor and others.

Art. 29. In carrying out the activity the employees shall carry personal identification card with a photo, an identification sign and uniform clothes.

Art. 30. (1) In carrying out the activity under art. 5 the guards shall:

1. require the observance of the admission regime established by the assignor by the contract for entering and leaving the guarded site and its internal order, including by giving and observing obligatory instructions in:

a) checking up identification documents of outside persons and the official passes of the employees;

b) checking up of luggage, cargo and/or motor vehicles and their accompanying documents;

2. check up signals received from sites equipped with technical security systems and connected to centralised and local systems of surveillance and control, as the check up shall be carried out by mobile duty detail.

(2) The citizens shall obligatorily be informed through information boards, put in a visible place, that on entering and leaving the guarded site they are subject to the inspections under para 1, item 1, letter "a" and "b".

(3) The check up shall be carried out in a way not derogating the honour and dignity of the citizens.

(4) The information boards under para 2 shall inform the citizens about the using of technical devices for surveillance and control of the site, without specifying their location.

(5) The obtained video records shall be destroyed not later than 30 days after they have been made, for which written records shall be made by the chief of the guarding activity, except in the cases when they contain data for committed violation of the public peace or a crime.

(6) The obtained video records containing data for committed violation of the public peace or a crime shall be submitted to the law enforcement bodies.

Art. 31. (1) When a check up establishes violation of the established admission regime or of the rules for the internal order in the guarded site the guards shall immediately notify about that their chief.

(2) In the presence of data for committed crime the prosecutor and the respective police bodies shall be informed immediately, and in the presence of data for committed crime in guarded sites of the Ministry of Defence and the Bulgarian army service "Security – military police and military counter intelligence" shall be informed immediately.

Art. 32. (1) The guards shall detain a person in the region of the guarded site when:

1. he has committed a crime in the region of the guarded site;

2. by his actions he poses danger for the life and the health of the persons located in the region of the guarded site, of the personally protected person or damages their property.

(2) In detaining a person under para 1 the guards shall immediately notify the respective police bodies and shall fulfil their orders.

(3) In delivering the detained person to the respective police bodies written records shall be made containing:

1. full name of the issuer and his position;
2. date of issuance of the written records;
3. date and place of detention;
4. description of the circumstances in which the person was detained;
5. full name of the detained person, UCC, permanent or present address;
6. the explanations or objections of the detained person if he has made any;
7. full name of the witnesses, UCC, permanent or present address and their written

evidence.

(4) The written records shall be signed by the issuer and shall be submitted to the police bodies.

(5) At the discretion of the police bodies or at a request of the detained person medical examination shall be made.

Art. 33. In fulfilment of their official duties the guards may use personal protecting and defence devices.

Art. 34. (1) The guards shall have the right to use physical force and auxiliary devices – handcuffs, rubber and plastic truncheons, where it is impossible to fulfil their official duties in any other way, taking into account the concrete situation, the nature of the violation of the public peace and the personality of the offender.

(2) Physical force and auxiliary devices may be used after an obligatory warning, with exception of the cases of sudden attack.

(3) In using physical force and auxiliary devices the guards shall be obliged to protect the life and the health of the persons against whom they are directed.

(4) The using of physical force and auxiliary devices shall be stopped immediately after the achievement of the objective of the applied measure.

(5) Prohibited is the using of physical force and auxiliary devices regarding minor persons and pregnant women.

Art. 35. For each case of detention, using of physical force, auxiliary devices and firearms the guard shall prepare a written report to his chief, a copy of which shall immediately be submitted to the respective police bodies.

Art. 36. Prohibited, in carrying out the guarding activity, to the guards and their chiefs shall be:

1. provoking the commitment of tort;
2. intervention or taking side in settlement of team employment disputes in the guarded sites;
3. obstruction of the state bodies in fulfilment of their legal functions;
4. carrying out actions which restrict the rights and the freedoms of the citizens;
5. submitting or ceding the personal identification card, identification sign or uniform to other persons.

## Chapter four. INTERACTION WITH THE BODIES OF MI

Art. 37. (1) (amend. – SG 82/06) Established at Chief Directorate "Counteraction to Crime, Public Order Securing and Prevention" (CCPOSP) shall be a Consultative Council for cooperation on the issues of the private guarding activity, called hereinafter "the Council". It shall consist of chairman – a deputy director of National Service "Police" and six members – three authorised representatives of associations of persons carrying out private guarding activity, and three employees of the directorate appointed by the director of National Service "Police".

(2) The Council shall:

1. discuss problems related to the private guarding activity and propose measures for their resolution;

2. outline and propose concrete forms of cooperation and interaction between the police bodies and the persons carrying out private guarding activity, and account the results from them.

(3) The Council shall be convened for sittings at least once in three months by its chairman.

(4) The sittings of the Council shall be considered regular if they are attended by more than half of the representatives of the associations and of the police bodies. The decisions shall be taken by a common majority of the present members.

(5) The chairman shall appoint an administrative secretary who shall be in charge of organising the work of the Council.

(6) The technical and secretarial servicing of the work of the Council shall be carried out by National Service "Police".

Art. 38. The persons carrying out private guarding activity may create associations for protection of their professional interests which shall:

1. protect the interests of its members and assist their activity;

2. render assistance to the bodies of MI;

3. approach the control bodies regarding established violations of this law;

4. authorise their representatives for participation in the Council.

Art. 39. The police officials carrying out the interaction under this law shall inform, where necessary, the persons carrying out private guarding activity about the criminal situation in the region on whose territory is located the site guarded by them.

## Chapter five. CONTROL OVER THE PRIVATE GUARDING ACTIVITY

Art. 40. (1) The Ministry of Interior shall establish and maintain a Single Automated Centralised Register for the licences and registrations for the activities under this law.

(2) The Single Automated Centralised Register for the licences and registrations shall contain data for:

1. the issued licences, the refusals to issue licences, and the withdrawn licences;

2. the registrations made for the activities of self protection;

3. the guarded sites and the number of guards;
4. the devices used in carrying out the guarding (vehicles, weapons, etc.).

(3) The information from the Single Automated Centralised Register may be used only for exercising control under this law and for prevention, repression and detection of crime.

Art. 41. (1) (amend. – SG 82/06) The control over the activities under this law shall be exercised by civil servants of MI – "Guarding police" at CCPOSP of General Directorate "Police" and the District Directorates "Police" appointed by an order.

(2) The control bodies under para 1 shall:

1. require the documents and information necessary for the control;
2. require access to the guarded sites;
3. give obligatory prescriptions for bringing the guarding activity in compliance with the requirements of the law;
4. control the observation of the requirements of the Law for control over the explosives, firearms and munitions by the armed guarding;
5. have the right to carry out guarding examination of sites and give prescriptions.

(3) The control bodies, besides in the cases stipulated by this law, shall be obliged not to make public the information representing trade secret of the persons inspected by them.

## Chapter six. ADMINISTRATIVE PENAL PROVISIONS

Art. 42. (1) Who carries out activity under art. 5 without a licence or registration shall be punished:

1. for individuals – by a fine of 1000 to 10 000 levs;
2. for corporate bodies and sole entrepreneurs – by a proprietary sanction amounting from 10 000 to 50 000 levs.

(2) When the offence under para 1 is committed repeatedly the following punishment shall be imposed:

1. for individuals – a fine of 10 000 to 20 000 levs;
2. for corporate bodies and sole entrepreneurs – by a proprietary sanction amounting from 50 000 to 100 000 levs.

Art. 43. (1) A person carrying out activity under art. 5, who concludes employment contract with a person not meeting the requirements for employing guards according to this law shall be punished by a fine, respectively by a proprietary sanction amounting to 1000 levs for each individual offence.

(2) A person carrying out activity under art. 5 using a person for guarding activity with who he has not concluded an employment contract shall be punished by a fine, respectively by a proprietary sanction amounting to 1000 levs for each individual offence.

Art. 44. An entrepreneur who does not fulfil his obligations under art. 18, para 2 or art. 20 shall be punished by a proprietary sanction of 1000 levs for each individual offence.

Art. 45. Who does not fulfil other obligation ensuing from this law regarding the requirements for carrying out guarding activity shall be punished by a fine of 200 to 500 levs unless subject to a more severe punishment.

Art. 46. (1) The offences shall be established by acts issued by the control bodies under this law.

(2) On the grounds of the issued acts the Minister of Interior or officials authorised by him shall issue penal provisions.

(3) The establishing of offences, the issuance, the appeal and the fulfilment of the penal provisions shall be carried out by the order of the Law for the administrative offences and sanctions.

#### Additional provisions

§ 1. "Repeated" in the meaning of this law is the offence committed within one year from the enactment of the penal provision imposing punishment on the offender for the same kind of offence.

### Transitional and concluding provisions

§ 2. The permits issued before the enactment of the law shall be valid until the expiration of their term.

§ 3. Proceedings, instituted before the enactment of the law, for withdrawal of permits and for imposing administrative sanctions shall be concluded by the previous order.

§ 4. Within three months from the enactment of the law the director of National Service "Police" shall approve the programme under art. 28, para 3.

§ 5. The following amendments are introduced to the Law for the Ministry of Interior (prom., SG 122/97, SG 29/98 – Decision No 3 of the Constitutional Court of 1998; amend., SG 70, 73 and 153/98, SG 30 and 110/99, SG 1 and 29/00, SG 28/01, SG 45 and 119/02, SG 17, 26, 95, 103, 112 and 114 of 2003):

1. Art. 81b is revoked.

2. In art. 81c:

a) para 1 is revoked;

b) in para 2 the words "having obtained permit under para 1" are replaced by "carrying out activity according to the Law for the private guarding activity";

c) para 3 is revoked.

3. In art. 284, para 1 the words "81b, 81c and" are deleted.

§ 6. The fulfilment of the law is assigned to the Minister of Interior.

The law was passed by the 39th National Assembly on February 11, 2004 and was affixed with the official seal of the National Assembly.

## Transitional and concluding provisions TO THE TAX-INSURANCE PROCEDURE CODE

(PROM. – SG 105/05, IN FORCE FROM 01.01.2006)

§ 88. The code shall enter in force from the 1st of January 2006, except Art. 179, Para 3, Art. 183, Para 9, § 10, item 1, letter "e" and item 4, letter "c", § 11, item 1, letter "b" and § 14, item 12 of the transitional and concluding provisions which shall enter in force from the day of promulgation of the code in the State Gazette.

## Transitional and concluding provisions TO THE ADMINISTRATIVE PROCEDURE CODE

(PROM. – SG. 30/06, IN FORCE FROM 12.07.2006)

§ 142. The code shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136, item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – with regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;

2. paragraph 120, which shall enter into force from the 1st of January 2007;

3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.

## Transitional and concluding provisions TO THE LAW OF THE COMMERCIAL REGISTER

(PROM. – SG 34/06, IN FORCE FROM 01.10.2006)

§ 56. This law enters in force from 1st of October 2006, except § 2 and § 3, which enter in force from the date of promulgation of the law in the State Gazette.