

Gordon D Hebb - Security and Investigative Services Act

From: "South Shore Private Investigations Ltd." <sspi@eastlink.ca>
To: <hebbgd@gov.ns.ca>
Date: 05 November 2009 9:12 PM
Subject: Security and Investigative Services Act
Attachments: Concerns - Security and Investigative Services Act.docx

Mr. Hebb,

Attached is a document outlining several of my concerns with regard to this new legislation. Several of these concerns were raised months ago by members of The Council of Private Investigators - Atlantic Canada with Department of Justice personnel who drafted this legislation, after it was provided to us in draft form. It appears that these concerns fell on deaf ears. As a stakeholder in this new legislation it would have been nice to have been consulted prior to the creation of the draft document. Our Council members have many years experience in the Private Investigation / Private Guards field and have very valid concerns over some of the intent of this legislation. I feel quite certain that had we been able to contribute at the outset, many of the 'offending' provisions of this legislation could have been addressed and workable / effective provisions developed.

I am asking you for permission to present my concerns when the Bill respecting this Act is brought before Committee. Clearly there are provisions within this proposed Act that violate the most basic of privacy rights and which also appears to arbitrarily restrict the ability to carry on a legitimate part of my business.

Respectfully,

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Concerns about the new Security and Investigative Services Act

10 (1) No person shall knowingly enter into an agreement for hire, reward or any consideration for the provision of security services with an unlicensed person or business entity.

(2) While carrying out duties pursuant to this Act, no licensee shall act, with or without remuneration, or hold himself, herself or itself as being available to act, with respect to

- (a) the collection of accounts;
- (b) acting as a bailiff or civil process server; or
- (c) executing an eviction notice under the *Residential Tenancies Act*.

Does this mean that a Private Investigator cannot also be licensed as a Provincial Civil Constable? Many agencies currently offer Process Serving as part of the services they provide. What is the intent of these new provisions?

15 (6) A security agent licence is only valid while the licensee is employed by a security agency or by a business entity to provide security services for that business entity.

Does this mean that a Private Investigator (agent), with a valid license, can 'shop' his or her services from one Agency to another? Currently an agent is licensed to one, and only one agency and that agency is solely responsible for the agent's conduct.

25 (1) In carrying out an inspection at the premises of a security agency or a business entity that employs a person to provide security services for that business entity, a compliance officer may enter and inspect, at any reasonable hour of the day, to do any or all of the following:

- (a) examine all money, valuables, documents, records or things that are relevant to the inspection;
- (b) require a person on the premises being inspected to produce anything mentioned in clause (a) that is relevant to the inspection;
- (c) remove, for the purpose of making copies or extracts, anything mentioned in clause (a) that is relevant to the inspection;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned, held in trust, acquired or disposed of by a licensee that are relevant to an inspection;
- (e) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document or record in readable form;
- (f) make any investigation or inquiry, as the officer considers necessary, to ascertain whether there is compliance with this Act and the regulations;
- (g) attend a training program provided for security agents or security agencies to ensure it meets required standards.

(2) Where a record or thing is removed under subsection (1)(c), the compliance officer

- (a) may make copies of, take extracts from or otherwise record it; and

(b) shall give a receipt to the person from whom it is taken.

(3) The authority under Section 23 and subsection (1) must not be used to enter a private dwelling except with the consent of the occupant or under the authority of a warrant under Section 28.

(4) A person who is required to produce anything under this Act or the regulations shall produce it and shall, on request by a compliance officer, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document or record in readable form.

(5) A copy of a document or record certified by a compliance officer as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

Any search / seizure action taken by a Compliance Officer or anyone else under this Section 25 and outside the provisions of Section 28 (under the authority of the Summary Proceedings Act) or the Criminal Code, appears to be a violation of the Charter of Rights and Freedoms as it absolutely authorizes unreasonable search and seizure. What happened to 'Due Process'?

28 A compliance officer may, in accordance with the *Summary Proceedings Act*, obtain a warrant or investigative warrant in the exercise of any of the powers under this Act.

This section should read ' A compliance officer shall,'. Where are the rights to privacy that are afforded every citizen in Canada?

29 Where a person fails to comply with an order of the Registrar or a compliance officer made under this Act, the Registrar may, in addition to any other action the Registrar may take, make an application to a judge of the Supreme Court of Nova Scotia for an order directing the person to comply with the order of the Registrar or the compliance officer.

Should this section not also address the compliance of an Agency? This only appears to address the compliance of a person.