

ABBOZZ TA' LIĠI
imsejjah

ATT biex jemenda l-Att dwar Gwardjani Privati u Lokali, Kap. 389.

Il-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2010 li jemenda l-Att dwar Gwardjani Privati u Lokali u dan l-Att għandu jinqara u jiftiehem haġa waħda mal-Att dwar Gwardjani Privati u Lokali, hawn iżjed 'il quddiem msejjaħ "l-Att prinċipali". Titolu fil-qosor.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 2 tal-Att prinċipali.

(a) fit-tifsira ta' "aġenzija ta' gwardjani privati" li hemm fih, minnufih wara l-kliem "servizzi ta' gwardjani privati" għandhom jidhlu l-kliem "jew servizzi ta' gwardjani privati speċjalizzati" u minflok il-kliem "impjegat biex jipprovi servizzi ta' gwardjan privat f'xi post ta' divertiment kif jista' jiġi preskritt" għandhom jiġu sostitwiti l-kliem "gwardjani privati";

(b) fit-tifsira ta' "gwardjan privat" li hemm fih, minflok il-kliem "f'isem dik l-aġenzija" għandhom jiġu sostitwiti l-kliem "inklużi dawk is-servizzi f'post ta' divertiment u servizzi ta' gwardjani privati speċjalizzati";

(ċ) fit-tifsira ta' "servizzi ta' gwardjani privati" minflok il-kliem minn "*part-time* jew każwali" sa "ikunu miftuħa għall-pubbliku;" għandhom jiġu sostitwiti l-kliem "*part-time* jew każwali";

(d) minnufih wara t-tifsira ta' "gwardjan privat" li hemm fih, għandha tiżdied it-tifsira ġdida li ġejja:

" "gwardjan privat speċjalizzat" tfisser gwardjan privat li joffri servizzi speċjalizzati ta' gwardjan privat;

(e) minnufih wara t-tifsira ta' "servizzi ta' konsulenza dwar is-sigurtà" li hemm fih, għandha tiżdied it-tifsira ġdida li ġejja:

" "servizzi speċjalizzati ta' gwardjan privat" tfisser il- provvista ta' servizzi ta' gwardjan privat fir-rigward ta' ġarr jew għassa ma' flus jew xi proprjetà oħra li tkun qed tingarr, jew rigward il-postjiet fejn flus jew proprjetà ta' valur tkun maħżuna, jew rigward postjiet oħra li b'xi mod iehor ikunu esposti għal riskju kbir ta' sigurtà."; u

(f) minnufih wara t-tifsira "servizzi ta' konsulenza dwar is-sigurtà" għandha tidhol it-tifsira ġdida li ġejja:

" "Tribunal ta' Revizjoni Amministrattiva" tfisser it-tribunal stabbilit taht l-artikolu 5 tal-Att dwar il-Ġustizzja Amministrattiva."

Emenda tal-
artikolu 6 tal-
Att prinċipali.

3. Minnufih wara s-subartikolu (5) tal-artikolu 6 tal-Att prinċipali, għandhom jidhlu s-subartikolu ġodda li ġejjin:

"(6) Meta tkun qed tiġi kkunsidrata xi applikazzjoni pprezentata minn xi persuna li tixtieq tiġi liċenzjata bhala aġenzija ta' gwardjani privati li thaddem jew tixtieq thaddem xi gwardjani privati biex tipprovdi servizz ta' gwardjani privati f'xi post ta' divertiment, il-Kummissarju għandu jiddetermina jekk dak il-post ta' divertiment għandux bżonn dik il-provvista ta' dawk is-servizzi, wara li jieħu in konsiderazzjoni s-sigurtà inkluż partikolarment l-ammont massimu ta' nies li jiflaħ dak il-post ta' divertiment.

(7) Meta persuna tkun tixtieq thaddem aġenzija ta' gwardjani privati għall-finijiet ta' provvista ta' servizzi ta' gwardjani privati f'post ta' divertiment, dik il-persuna qabel għandha titlob l-awtorizzazzjoni tal-Kummissarju.

(8) Persuna li tixtieq thaddem aġenzija ta' gwardjani privati għall-fini ta' provvista ta' servizzi speċjalizzati ta' gwardjani privati għandha qabel titlob l-awtorizzazzjoni tal-Kummissarju. Il-Kummissarju għandu jikkunsidra jekk il-kriterji għas-servizzi ta' gwardjani privati speċjalizzati humiex sodisfatti."

4. Fis-subparagrafu (v) tal-paragrafu (a) tal-artikolu 10 tal-Att prinċipali, minflok il-kliem " id-delitt;" għandhom jiġu sostitwiti l-kliem "id-delitt; jew" u minnufih wara għandu jidhol is-subparagrafu ġdid li ġej:

Emenda tal-artikolu 10 tal-Att prinċipali.

"(vi) tkun instabet haġta f'Malta jew x'imkien ieħor ta' xi reat li jaffetwa l-bon ordni tal-familji."

5. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 11 tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, minflok il-kliem "jaġmel sottomissjonijiet bil-miktub lill-Ministru" għandhom jiġu sostitwiti l-kliem "jaġmel rikors fit-Tribunal ta' Revizjoni Amministrattiva skont l-artikolu 15 tal-Att dwar il-Ġustizzja Amministrattiva" u minnufih wara l-kliem "li tinħareġ il-liċenza" għandhom jidhlu l-kliem "u wara dan id-dispożizzjonijiet tal-imsemmi Att għandhom japplikaw għall-proċedimenti quddiem l-imsemmi Tribunal u għal kull appell minn xi deċiżjoni tiegħu"; u

(b) is-subartikolu (4) tiegħu għandu jiġi mħassar.

6. Minnufih wara l-artikolu 12 tal-Att prinċipali, għandhom jidhlu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda mal-Att prinċipali.

"Twaqqif ta' persuni milli jidhlu f' post ta' divertiment.

12A. (1) Gwardjan privat f' post ta' divertiment għandu jkollu s-setgħa li jwaqqaf xi persuna milli tidhol f' dak il-post ta' divertiment jekk dik il-persuna tkun magħrufa illi kkawżat storbu fl-imsemmi post jew f' postijiet oħra, inkluż permezz ta' vjolenza jew fastidju lil persuni oħra. Persuna tista' titwaqqaf milli tidhol jekk tirrifjuta illi, fuq talba, tiproduci dokument ta' identifikazzjoni, jew li manifestament tidher intenzjonata li tikkawża storbu jew jekk persuna tidher vjolenti minħabba li tkun xurbana.

(2) Meta persuna tikkawża storbu għewwa post ta' divertiment permezz ta' mgħiba vjolenti, il-gwardjan privat f' dak il-post ta' divertiment, għandu jieħu l-miżuri kollha neċessarji sabiex minnufih jinforma lill-Pulizija u għandu jkollu s-setgħa illi jzomm lil dik il-persuna sakemm jasal uffiċjal tal-Pulizija.

(3) Meta persuna tiffastidja persuna oħra f'post ta' divertiment, il-gwardjan privat minnufih għandu jinforma lill-Pulizija u għandu jkollu s-setgħa li jakkumpanja lil dik il-persuna 'il barra minn dak il-post jew iżommha sakemm jasal uffiċjal tal-Pulizija.

(4) Fit-twettiq tad-dispożizzjonijiet tas-subartikoli (1), (2) u (3) il-gwardjan privat fil-post ta' divertiment jista' juża forza minima biss meta l-persuna tikser dawk l-ordnijiet mingħajr trażżin fiżiku.

Setgħat oħra ta' gwardjani privati speċjalizzati.

12B. (1) Gwardjan privat speċjalizzat jista' jwaqqaf persuna milli tidhol f'post jekk tirrifjuta illi tipproduċi dokument ta' identifikazzjoni jew jekk xi persuna tkun qed tikkawża storbu jew ikun hemm suspett raġonevoli illi tista' tikkawża storbu.

(2) Gwardjan privat speċjalizzat għandu jkollu s-setgħa illi jwettaq tfittxija fuq kull persuna li tidhol f'post mgħasses għall-armi proprji, jew oġġetti simili għal armi ta' kull deskrizzjoni, jew għal kull oġġett ieħor li jista' jintuża għal finijiet difensivi jew offensivi, u meta l-imsemmi gwardjan privat jiskopri xi arma proprja jew oġġett bħal dak, għandu minnufih jinforma lill-Pulizija u jzomm l-oġġett u l-persuna sakemm jasal uffiċjal tal-Pulizija.

(3) Meta persuna thedded xi persuna f'post mgħasses jew billi żzomm jew turi arma proprja jew xi oġġett li jista' jinftiehem bħala arma proprja jew bħala oġġett ieħor li jista' jintuża għall-finijiet difensivi jew offensivi, jew li jikkawża xi storbu b'kull mod ieħor, il-gwardjan privat speċjalizzat għandu jkollu s-setgħa li jzomm dak l-oġġett imsemmi qabel u għandu jzomm il-persuna sakemm jasal uffiċjal tal-Pulizija. Kull meta tkun miżmuma persuna, il-gwardjan privat speċjalizzat għandu minnufih jinforma lill-Pulizija.

(4) Gwardjan privat speċjalizzat imqabbað sabiex jgħasses xi flus jew proprjetà li qed tingarr, jew f'dak il-post fejn qed issir it-tagħbija jew il-ħatt ta' dawk il-flus jew proprjetà, jista' jzomm kull persuna fil-post ta' ħidma li turi mġiba ta' theddid, abbużiva jew vjolenti, jew li turi xi arma proprja, xi oġġett li jista' jinftiehem bħala arma proprja jew kull oġġett ieħor li jista' jintuża għall-finijiet difensivi jew offensivi. Dik il-persuna għandha tinzamm sakemm jasal uffiċjal tal-Pulizija. Kull meta tkun miżmuma persuna, il-gwardjan privat speċjalizzat għandu minnifh jinforma lill-Pulizija.

(5) Fit-twertiq tad-dispożizzjonijiet tas-subartikoli (1), (2), (3) u (4) il-gwardjan privat speċjalizzat jista' juża forza minima biss meta l-persuna tikser dawk l-ordnijiet mingħajr trażżin fiżiku."

7. Fis-subartikolu (2) tal-artikolu 22 tal-Att prinċipali minflok il-kliem "liċenzat bħala gwardjan privat" għandhom jiġu sostitwiti l-kliem "liċenzat bħala gwardjan privat, gwardjan privat speċjalizzat jew gwardjan privat f'post ta' divertiment".

Emenda tal-artikolu 22 tal-Att prinċipali.

8. Fl-artikolu 23 tal-Att prinċipali, minflok il-kliem "gwardjan privat" għandhom jiżdiedu l-kliem "gwardjan privat, gwardjan privat speċjalizzat jew gwardjan privat f'post ta' divertiment".

Emenda tal-artikolu 23 tal-Att prinċipali.

9. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 25 tal-Att prinċipali.

(a) fil-paragrafu (b) tiegħu, minflok il-kliem "bħala gwardjan privat" għandhom jiġu sostitwiti l-kliem "gwardjan privat, gwardjan privat speċjalizzat jew gwardjan privat f'post ta' divertiment,";

(b) fil-paragrafu (ċ) tiegħu, minflok il-kliem "servizzi ta' gwardjan privat" għandhom jiġu sostitwiti l-kliem "servizzi ta' gwardjan privat, gwardjan privat speċjalizzat jew gwardjan privat f'post ta' divertiment," u l-kliem "mhux iżjed minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69)." għandhom jiġu sostitwiti l-kliem "mhux iżjed minn elf u mija u mitejn euro (1,200);"; u

(ċ) minnufih wara l-paragrafu (ċ) tiegħu, għandu jizdied il-paragrafu ġdid li ġej:

"(d) li tkun gwardjan privat f'post ta' divertiment jew gwardjan privat speċjalizzat, teżerċita użu ta' forza eċċessiva jew u b'xi mod tabbuża mill-poter mogħti lilu taħt dan l-Att, u għandu meta jinsab ħati, jeħel multa ta' mhux iktar minn elfejn euro (2,000) u prigunerija ta' mhux iżjed minn tnaħ-il xahar jew dik il-multa jew prigunerija flimkien."

Emenda
konsegwenzjali
għall-Kodiċi
Kriminali.

10. Fil-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 222 tal-Kodiċi Kriminali minflok il-kliem "id-dmirijiet tal-kariga tagħha." għandhom jiġu sostitwiti l-kliem "id-dmirijiet tal-kariga tagħha;" u minnufih wara għandu jidhol il-paragrafu ġdid li ġej:

"(d) fuq il-persuna ta' kull min kien qiegħed jaqdi d-dmirijiet tal-kariga tiegħu bħala gwardjan privat, gwardjan privat speċjalizzat jew gwardjan lokali skont id-dispożizzjonijiet tal-Att dwar Gwardjani Privati u Lokali."

Għanjiet u Raġunijiet

L-għan ta' dan l-Abbozz hu sabiex jiġi emendat l-Att dwar Gwardjani Privati u Lokali billi jingħataw ċerti setgħat u jiġu imposti ċerti obbligi fuq gwardjani privati speċjalizzati .

**A BILL
entitled**

AN ACT to amend the Private Guards and Local Wardens Act, Cap. 389.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. The short title of this Act is the Private Guards and Local Wardens (Amendment) Act, 2010 and this Act shall be read and construed as one with the Private Guards and Local Wardens Act, hereinafter referred to as "the principal Act".

Short title.

2. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) immediately before the definition of "bye-laws" therein there shall be inserted the following new definition:

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

(b) in the definition of "private guard" therein, for the words "on behalf of the said agency" there shall be substituted the words "including such services at a place of entertainment and specialised private guards services;"

(c) in the definition of "private guard agency" therein, immediately after the words "private guard services" there shall be inserted the words "or specialised private guard services" and for the words "an employee to provide guard services in any place of entertainment as may be prescribed" there shall be substituted the words "private guards";

(d) in the definition of "private guard services" for the words from "part-time or casual," to "are open to the public;" there shall be substituted the words "part-time or casual;"; and

(e) immediately after the definition of "security consultancy services" there shall be added the following new definitions:

" "specialised private guard" means a private guard rendering specialised private guard services;

"specialised private guard services" means private guard services in relation to the transportation or guarding in transit of money or property, or in relation to premises where money or property of value is stored, or in relation to other premises otherwise exposed to high security risks;"

Amendment of article 6 of the principal Act.

3. Immediately after sub-article (5) of article 6 of the principal Act, there shall be inserted the following new sub-articles:

"(6) In considering an application lodged by any person desiring to be licensed as a private guard agency employing or engaging private guards to provide private guard services in any place of entertainment the Commissioner shall determine whether the place of entertainment in question requires the provision of such services, taking into account security considerations including in particular the maximum capacity of the place of entertainment in question.

(7) Where a person desires to engage a private guard agency for the purposes of providing private guard services at a place of entertainment such person shall request the prior authorisation of the Commissioner.

(8) A person desiring to engage a private guard agency for the purpose of providing specialised private guard services shall request the prior authorisation of the Commissioner. The Commissioner shall consider whether the criteria for specialised private guard services are fulfilled."

Amendment of article 10 of the principal Act.

4. In sub-paragraph (v) of paragraph (a) of article 10 of the principal Act, for the words "of the crime;" there shall be substituted the words "of the crime; or" and immediately thereafter there shall be inserted the following new sub-paragraph:

"(vi) has been convicted in Malta or elsewhere of a crime affecting the good order of families."

5. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) in sub-article (3) thereof for the words "make submissions to the Minister" there shall be substituted the words "apply to the Administrative Review Tribunal in accordance with article 15 of the Administrative Justice Act" and immediately after the words "that the licence be issued" there shall be inserted the words "and thereupon the provisions of the said Act shall apply to the proceedings before the said Tribunal and to any appeal from any decision thereof"; and

(b) sub-article (4) thereof shall be deleted.

6. Immediately after article 12 of the principal Act, there shall be inserted the following new articles: Addition of new articles to the principal Act.

"Prevention of entry of persons in a place of entertainment.

12A. (1) A private guard at a place of entertainment shall have the power to prevent any person from entering that place of entertainment if the person is known to have caused disturbance at the said or other premises, including through violent behaviour or harassment of other persons. Entry may also be denied to any person who refuses to produce an identification document on request, or who appears manifestly intent on causing disturbance or to a person who appears violent on account of intoxication.

(2) Where a person causes disturbance within a place of entertainment by displaying violent behaviour, the private guard at the place of entertainment shall take such measures as necessary to notify the Police immediately and shall have the power to detain such person until the arrival of a Police officer.

(3) Where a person harasses any other person at a place of entertainment, the private guard at the place of entertainment shall notify the Police immediately and shall have the power to escort that person outside the premises, or to detain such person until the arrival of a Police officer.

(4) In giving effect to the provisions of sub-articles (1), (2) and (3) the private guard at the place of entertainment may exercise minimum force only where the person fails to comply without physical restraint.

Other powers of specialised private guards.

12B. (1) A specialised private guard may deny entry to any person who fails to produce, on request, an identification or to any person who is causing or whom he reasonably suspects will cause disturbance.

(2) A specialised private guard shall have the power to carry out a search on any person entering the premises being guarded for any arms proper, or objects similar to weapons of any description, or any other object that may be used for defensive or offensive purposes and where the said private guard discovers any such arm proper or object he shall immediately notify the Police and shall withhold the object and detain the person until the arrival of a Police Officer.

(3) Where a person threatens any other person at the premises being guarded, or carries or displays any arm proper or any object that may be perceived as an arm proper or as any other object that may be used for defensive or offensive purposes, or causes a disturbance in any other way whatsoever, a specialised private guard shall have the power to immediately seize any such object as aforesaid and shall detain the person until the arrival of a Police officer. Whenever a person is detained the specialised private guard shall notify the Police immediately.

(4) A specialised private guard engaged in the guarding of money or property in transit, or of any such place where loading or unloading of such money or property is taking place, may detain any person in the area of operation who displays threatening, abusive or violent behaviour, or who displays any arm proper, any object that may be perceived as an arm proper or any other object that may be used for defensive or offensive purposes. Such person shall be detained until the arrival of a Police officer. Whenever a person is detained the specialised private guard shall notify the Police immediately.

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

7. In sub-article (2) of article 22 of the principal Act, for the words "Every person licensed as a private guard" there shall be substituted the words "licensed as a specialised private guard or a private guard at a place of entertainment".

Amendment of article 22 of the principal Act.

8. In article 23 of the principal act, for the words "a private guard" there shall be substituted the words "a private guard, a specialised private guard or a private guard at a place of entertainment".

Amendment of article 23 of the principal Act.

9. Article 25 of the principal Act shall be amended as follows:

Amendment of article 25 of the principal Act.

(a) in paragraph (b) thereof, for the words "as a private guard" there shall be substituted the words "as a private guard, a specialised private guard or a private guard at a place of entertainment.";

(b) in paragraph (c) thereof, for the words "private guard services" there shall be substituted the words "private guard services, specialised private guard services, the services of private guards at a place of entertainment" and the words "not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69)." shall be substituted by the words "not exceeding one thousand and two hundred euro (1,200);"; and

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

"(d) who, being a private guard at a place of entertainment or a specialised private guard, exercises excessive use of force or in any other way abuses of the powers conferred upon him under this Act, shall be liable, on conviction, to a fine (*multa*) not exceeding two thousand euro (2,000) and to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment."

Consequential amendment to the Criminal Code.

10. In paragraph (c) of sub-article (1) of article 222 of the Criminal Code for the words "exercised his functions." there shall be substituted the words "exercised his functions;" and immediately thereafter there shall be inserted the following new paragraph:

"(d) on the person of whosoever was exercising his lawful duties as a private guard, a specialised private guard or local warden in accordance with the provisions of the Private Guards and Local Wardens Act."

Objects and reasons

The object of the Bill is to amend the Private Guards and Local Wardens Act by giving certain powers to, and imposing certain obligations on, specialised private guards.