



Y. ECONOMIDES & CO LLC

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ARMED AND UNARMED PROTECTION OF CYPRUS FLAG VESSELS

The Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012
(Law 77/2012)



Memorandum on application and approval process for private ship security companies



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Table of Contents

	Pages
I. Introduction	2
II. Prerequisites for the approval of private ship security companies	2
III. Application and approval process for private ship security companies	4
IV. Approval: Issue of the relevant certificate	6
V. The Authorized Representative	6
VI. Firearm or firearms	7



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The Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012
(Law 77/2012)

I. Introduction

The Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012 No. 77/2012 (the '**Law**') was published in the official gazette of the Republic of Cyprus (the '**Republic**') on 15 June 2012. A copy of the Law must be placed on board every Cyprus flag vessel. The Master and Shipboard personnel all ships flying the Cyprus flag are required to become aware of the provisions of the Law as the aforesaid law has a global geographical application and establishes new rights and obligations for them.

II. Prerequisites for the approval of private ship security companies

Any legal person who wishes to provide services for the protection of the security of ships must submit to the Department of Merchant Shipping of the Ministry of Communications and Works (the '**Competent Authority**') an application for issue of a certificate attesting that it is allowed to implement security measures on ships using the private ship security guards it employs.

The Competent Authority may, and has the power, to issue the certificate referred to above to a legal person constituted or registered as legal person:

- a) in accordance with the laws of the Republic and has its registered office in the Republic; or
- b) in accordance with the laws of any other Member State and has its registered office, central administration or principal place of business in a Member State, if it establishes and undertakes to maintain, for the duration of the validity of the certificate, an authorized representative in the Republic in accordance with the provisions of Section V below; or
- c) in accordance with the laws of any other State, subject to the Competent Authority permission, if it establishes and undertakes to maintain, for the duration of the validity of the certificate, an authorized representative in the Republic in accordance with the provisions of Section V below.

A certificate shall not be issued to a private ship security company which is owned or controlled by a natural or legal person, or is connected in any way with, or has as a



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shareholder or partner or executive officer or director or secretary, a natural or legal person, or who employs a person:

- i. against which there are sanctions under provisions of resolutions adopted by the United Nations Security Council under Chapter VII of the Charter of the United Nations or by its committees or subcommittees, or by an institution of the European Union on the basis of the provisions of Community law; or
- ii. has been convicted, or against whom an arrest warrant or a case is pending, before the International Criminal Court or another international tribunal established under the provisions of the Charter of the United Nations; or
- iii. which has been sentenced by a court for any of the offences referred to in the Fifth Schedule of the Law and which has not been rehabilitated; or
- iv. against whom an arrest warrant or a case is pending before a court for any of the offences referred to in the Fifth Schedule of the Law; or
- v. which has been dismissed by the Public or Educational Service or the Police or the Army of the Republic or of another State or by a public corporate body, for a disciplinary offence which involves dishonesty or moral turpitude;
- vi. who holds a position in the Public or Educational Service of the Republic or of another State or in the Police or the Army of the Republic of another State or is employed by a public corporate body; or
- vii. which is a user of any narcotic drugs or other psychotropic substances; or
- viii. who suffers from mental illness, which, in the opinion of the Competent Authority, may prevent him from performing his duties.

Provided that, the Competent Authority may, and has the power to, require the applicant to submit a medical certificate from a government medical officer in relation to the status of the mental health of any of the persons referred to in this subsection; or

- ix. which, or for which, the Competent Authority has reasons to believe that:
 - (aa) has submitted a request for the establishment and/or operation of and/or for the renewal of the validity of the permit to operate a private security service office; or
 - (bb) has set up and/or operates and/or had founded and/or operated a private security service office regardless of whether the authorization of such office is valid; or
 - (cc) is employed, and/or has been employed, as a personnel and/or as a private guard by a private security service office; or
 - (dd) has, or has had, any other than the above relations with a private security service office and/or has, or has had, any other than the above relations with a legal and/or natural person which had set up and/or operated a private security service office; or



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(ee) has submitted an application for the issue and/or for the renewal of a license to practice the profession of a private guard and/or has been issued with a license to practice the profession of a private guard regardless of whether the license is valid.

Provided that, the Competent Authority may, and has the power to, require the applicant to submit a written confirmation from the Chief of Police stating that he does not fall under the provisions of this subparagraph, and in such case, it shall suspend the examination of the relevant application until the submission of such confirmation.

Provided further that, for the purposes of the above provisions the terms “private security service office”, “personnel”, “guard” and “private guard” have the meaning attributed to them in section 2 of the Private Security Service Offices Laws of 2007 to 2011; or

- x. which, or for which, the Competent Authority has reasons to believe that he has committed an illegal act, or has been involved, or has been provoking, or intentionally facilitate, in an illegal act, or is involved or associated with persons who have committed an illegal act.

III. Application and approval process for private ship security companies

The application for the issue of the certificate is submitted by the legal person or by its authorized representative in the official language of the Republic, or in a language understood by the Competent Authority and shall contain the information and be accompanied by the documentation referred to herein below.

The information to be included in the application and the documents which are required to be submitted with the application are:

- 1) the name and address of applicant;
- 2) certificate of incorporation or registration as a body corporate or partnership, of the legal person for which application is made;
- 3) certificate of the address of the registered office of the legal person;
- 4) certificate of shareholders or partners of the legal person;
- 5) certificate of directors and secretary of the legal person;
- 6) the name, surname, nationality, identity card or passport or travel document number, work telephone number, usual residence address, academic and/or other qualifications, previous occupations and/or activities and relevant experience of the directors (or partners, in case of partnership), the secretary and of the manager(s) of the legal person;
- 7) the name, surname, nationality, identity card or passport or travel document number, work telephone number, usual residence address, academic and/or other qualifications, previous occupations and/or activities and relevant experience of the natural person responsible for the legal person for purposes of the Law;



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- 8) the address of the office(s) from where the legal person is conducting its activities or operations and, for each of such offices, the office business hours, the telephone and facsimile numbers and e-mail address, including those applicable outside office business hours;
- 9) the name, surname, nationality, identity card or passport or travel document number and the title of all persons working for or employed by the legal person;
- 10) the name, surname, nationality, identity card or passport or travel document number, work telephone number, usual residence address, academic and/or other qualifications, previous occupations and/or activities and relevant experience of the persons employed or working for the legal person as private ship security guard who may be responsible for carrying out work aboard a ship in relation to the implementation of a written private agreement;
- 11) the description of the activities and services the legal person provides, its organizational structure and the administrative and supervisory arrangements for the management of the work performed;
- 12) the description of the services the legal person offers or intends to offer in relation to the provisions of the Law and for which the application is made and the relevant to the services offered types of ships;
- 13) the description of the firearms and/or special security equipment which may be used and their identification and tracing details;
- 14) a declaration of the applicant or of the legal person that the legal person is satisfied and undertakes to ensure that its shareholders or partners, directors, managers, secretary, the person responsible for the legal person for purposes of the Law, the private ship security guards referred to in item 10 above, and all other persons employed by, or working for, the legal person do not fall within the provisions of Section II above and the Law;
- 15) a declaration of the applicant or of the legal person that the legal person has lawfully acquired and lawfully possesses the firearms and/or specialized security equipment it intends to use for the provision of its services and that they will remain in its possession and will not be sold or given for use by other States or other natural or legal persons after the completion of their usage on-board;
- 16) a declaration of the applicant or of the legal person that the legal person undertakes the responsibility to compensate the persons on board the ship and the ship's operator for any damage they suffer due to its fault or negligence, or due to the fault or negligence of the private ship security guards or of any other person it employs or is working for it;
- 17) a declaration of the applicant or of the legal person that the private ship security guards referred to in item 10 above have in force contract of employment with the legal person and that they are trained, to a degree that satisfies the legal person, in transportation, handling, storage, stowage and use of firearms and/or specialized security equipment it intends to use for the provision of its services;
- 18) a declaration of the applicant or of the legal person that the legal person undertakes and assumes, irrevocably, the responsibility for health care and the



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repatriation of private ship security guards on whom will entrust the implementation of a written private agreement and of the other persons it employs or work for it which may go on board on its instructions;

- 19) a declaration of the applicant or of the legal person that the legal person agrees, undertakes and assumes, irrevocably, the obligation to abide by and implement the provisions of the Law and to cooperate, obey and implement the decisions and directives of the Competent Authority;
- 20) a declaration from each of the directors, managers, secretary, the person responsible for the legal person for purposes of the Law, the private ship security guard referred to in subparagraph (10) of this Schedule and from all other persons employed by, or working for, stating that he does not fall within the provision of Section II above and the Law and that he agrees, undertakes and assumes, irrevocably, the obligation to abide by and implement the provisions of the Law and to cooperate, obey and implement the decisions and directives of the Competent Authority; and
- 21) in the cases specified in Section II above and the Law, the declaration appointing an authorized representative and a declaration of the authorized representative that it does not fall within the provisions of Section II above and the Law.

IV. Approval: Issue of the relevant certificate

The Competent Authority, if satisfied by the application and the information and data submitted thereto, may and has the power to issue to the legal person a certificate attesting that it is allowed to implement security measures on ships which have been issued with a certificate pursuant to Section IV above.

The Competent Authority has the obligation to indicate on the certificate:

- a) the name, address of the registered office of the private ship security company and the address of the office from which the company is carrying out its activities;
- b) the name, surname, nationality and the number of the identity card or passport or travel document of the person responsible for the private ship security company for the purposes of the Law;
- c) the name and address of the authorized representative, in the cases referred to in the provisions of Section II above and the Law;
- d) the services that the private ship security company may offer, the types of ships for which the certificate is valid and the types of firearms and/or special security equipment it may use;
- e) the name, surname, nationality and the number of the identity card or passport or travel document of the private ship security guards which the private ship security company employs and for which the certificate is valid;
- f) the date of issue and the date of commencement and expiry of the validity of the certificate; and



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g) any terms or conditions or information that it deems appropriate or necessary.

V. The Authorized Representative

For the purposes of the provisions of Section II above and the Law, the authorized representative may be:

- a) a citizen of the Republic or a citizen of another Member State who is resident in the Republic, within the meaning of the provisions of the Income Tax Laws of 2002 to Law (No. 2) of 2011; or
- b) a partnership established and registered in accordance with the provisions of the Partnerships and Business Names Law, Cap.116 and Laws of 1977 to 2011 having its place of business in the Republic and which employs permanent personnel in the Republic; or
- c) a corporation, which is incorporated and registered in accordance with the provisions of the Companies Law, Cap.113 and Laws of 1968 to 2011 having its place of business in the Republic and which employs permanent personnel in the Republic.

The Competent Authority may, and has the power, to determine, in relation to the authorized representatives, the information and documentation which are required to be submitted.

The authorized representative and the private ship security company, each of them have the obligation to notify to the Competent Authority as soon as possible any change in any of the particulars of the authorized representative. The Competent Authority, in case of changes in the particulars of the authorized representative listed on any certificates it has issued, shall reissue the certificates, which are in force, and, in such case, the private ship security company has the obligation to pay the relevant fees.

Any document required to be served on a private ship security company, which in accordance with the provisions of Section II above and the Law is required to appoint and maintain an authorized representative, shall be deemed to have been duly served on it, if is:

(a) delivered by hand to the authorized representative; or (b) sent by post or by other means and left to the last address communicated to the Competent Authority as the postal address of the authorized representative; or (c) sent by e-mail, telex or facsimile to the last e-mail address or telex or facsimile number communicated to the Competent Authority as the e-mail address, or the telex or the facsimile number of the authorized representative. For the purposes of this paragraph, the term document includes court orders, notices, commands, letters and anything else that shall be served in any legal, judicial or administrative procedure under the laws of the Republic.

The authorized representative is not responsible for the acts or omissions of the appointing private ship security company.



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VI. Firearm or firearms

PART I

For the purposes of the Law, “firearm” or “firearms” means all objects which fall in one of the following categories, except those objects which meet the definition but have been excluded from its scope for one of the reasons referred to in Part II of this Section VI:

Category A

Prohibited firearms and ammunition

- 1) Explosive military missiles and launchers;
- 2) Firearms disguised as other objects;
- 3) Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition; and
- 4) Ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of firearms for hunting or for target shooting.

Category B-1

Firearms requiring justification of the selection

- 1) Military smooth-bore firearms with a calibre of less than 20 mm, other military arms and automatic firearms with a calibre of 12,7 mm (calibre 0,50 inches) or less and accessories, as follows, and specially designed components therefor:
 - a) Rifles, carbines, revolvers, pistols, machine pistols and machine guns;
 - b) Smooth-bore firearms, as follows:
 - (i) Smooth-bore firearms specially designed for military use;
 - (ii) Other smooth-bore firearms as follows:
 - (aa) Fully automatic type firearms;
 - (bb) Semi-automatic or pump-action type firearms;
 - c) Firearms using caseless ammunition; and
 - d) Silencers, special gun-mountings, clips, firearms sights and flash suppressors for the firearms specified in items (a), (b) or (c) above.

Category B-2

Firearms requiring justification of the selection

- 1) Semi-automatic or repeating short firearms;



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- 2) Single-shot short firearms with centre-fire percussion;
- 3) Single-shot short firearms with rim-fire percussion whose overall length is less than 28 cm;
- 4) Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds;
- 5) Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the firearm cannot be converted, with ordinary tools, into a firearm whose magazine and chamber can together hold more than three rounds;
- 6) Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length; and
- 7) Semi-automatic firearms for civilian use which resemble firearms with automatic mechanisms.

Category C

Firearms subject to declaration of the selection

- 1) Repeating long firearms other than those listed in category B-2, item (6) above;
- 2) Long firearms with single-shot rifled barrels;
- 3) Semi-automatic long firearms other than those in category B-2, items 4 to 7 above; and
- 4) Single-shot short firearms with rim-fire percussion whose overall length is not less than 28 cm.

Category D

Firearms subject to declaration of the selection

Single-shot long firearms with smooth-bore barrels.

Part II

For the purposes of this Schedule, objects which meet the definition of a “firearm” shall not be included in that definition if they:

- a) have been rendered permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way;
- b) are designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;



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c) are regarded as antique firearms or reproductions of such, where these have not been included in the previous categories or are:

- (i) Muskets, rifles and carbines manufactured earlier than 1938; or
- (ii) Reproductions of muskets, rifles and carbines the originals of which were manufactured earlier than 1890; or
- (iii) Revolvers, pistols and machine guns manufactured earlier than 1890, and their reproductions.

Part III

For the purposes of this Section VI:

“firearm” shall mean any portable barrelled firearm that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant, unless it is excluded for one of the reasons referred to in Part II of this Section VI. Firearms are classified in categories in Part I of this Section VI;

Provided that, an object is to be considered as capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant if it has the appearance of a firearm, and as a result of its construction or the material from which it is made, it can be so converted.

Provided further that, for the purpose of identifying and tracing each assembled firearm require a unique marking, including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture (if not part of the serial number) or a unique user-friendly marking with a number or alphanumeric code, permitting ready identification. This shall be without prejudice to the affixing of the manufacturer's trademark. The marking shall be affixed to an essential component of the firearm, the destruction of which would render the firearm unusable.

“short firearm” means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;

“long firearm” means any firearm other than a short firearm;

“automatic firearm” means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;

“semi-automatic firearm” means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;



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“repeating firearm” means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;

“single-shot firearm” means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel;

“part” means any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;

“essential component” means the breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted;

“ammunition” means the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm

“ammunition with penetrating projectiles” means ammunition for military use where the projectile is jacketed and has a penetrating hard core;

“ammunition with explosive projectiles” means ammunition for military use where the projectile contains a charge which explodes on impact; and

“ammunition with incendiary projectiles” means ammunition for military use where the projectile contains a chemical mixture which bursts into flame on contact with the air or on impact.

- (i) remove the name of the overseas company from the register and inform the competent authority of the country or jurisdiction concerned that the company is not registered in Cyprus, or
- (ii) in case there is reasonable cause for not having submitted the above-mentioned documents, allow an extension of three months during which the said documents have to be submitted

Provided that in case the documents are not submitted within the prescribed period there is no further extension of time and the procedure provided for in paragraph 6 (a) (i) above shall be immediately followed.

7. Certificate of Continuity



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With the presentation at the Registrar of the evidence that proves that the overseas company is no longer a company registered in the country or jurisdiction that it was originally incorporated and with the delivery at the Registrar of the temporary certificate of continuation, the Registrar shall issue the certificate of continuation confirming that the company is registered as continuing in the Republic.

8. Circumstance where the application shall be rejected

(a) An application for the registration of an overseas company as continuing in the Republic shall be rejected in the following circumstances:

- (i) the dissolution or liquidation of the overseas company has started or the proceedings of insolvency or an arrangement or composition or proceedings of execution of court orders or other analogous proceedings have been initiated from or against the overseas company;
- (ii) a liquidator or special administrator of the overseas company or receiver of its property has been appointed;
- (iii) there is any decision or order with which the creditors' rights are suspended or limited; or
- (iv) there are proceedings that have commenced against it for the contravention of the laws of the country or the jurisdiction of its incorporation.

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