

# SAFE GUARDS

SGS CONSUMER TESTING SERVICES

CORPORATE SOCIAL RESPONSIBILITY SOLUTIONS

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## REGULATION ON THE ADMINISTRATION OF SECURITY AND GUARDING SERVICES

Enterprises in China who recruit security guards as employees or have a contract with a security service company who provides guards are facing increasing problems with many reported cases where security guards are alleged to have infringed people's rights and freedoms:

1. June 25, 2007, a female worker in a cosmetics factory in Fuzhou city Fujian province was suspected of stealing and forced to undress in front of all the workers;
2. June 17, 2008, one woman in a leather factory was suspected of stealing, and 14 female workers were forced to undress;
3. More than 7000 employees in a shoemaking factory in Liquanzhuang town, Laixi city of Shandong province are reported as having been subjected to body searches in the 3 years from 2005 to 2008;
4. 2008, during the lunch break, security guards in an electronic factory did not let the workers out saying this was an order given by the management;
5. 2009, a woman in a clothing factory refused to continue working and claimed wages from the factory, as a result security guards in the factory beat her...

In order to standardize the services of security guards, the Regulation on the Administration of Security and Guarding Services was adopted at the 82<sup>nd</sup> executive meeting of the State Council on September 28, 2009. This defines not only the qualifications, rights and obligations of the employers (including enterprises) and security guards, but also the scope of security and guarding services. Those who fail to comply with the regulation may be subject to legal action. The Regulation will come into effect from January 1, 2010.

### PROVISIONS ON ENTERPRISES WHO RECRUIT INTERNAL SECURITY GUARDS

According to the Regulation, security services in an enterprise cover the gate guarding, patrolling, maintenance of order and other safety and protection matters.

Enterprises shall establish and improve their security and guarding service management structure, post responsibility system and security guard management system, educate and train security guards on a regular basis, raise their moral awareness, service skills and sense of responsibility, and regularly check their capability.

Security and guarding services shall be performed in a legal and civilized way and shall not result in any infringement of public interests or people's rights. While performing security and guarding services, the use of surveillance equipment shall not impair people's legitimate rights or privacy. Security and guarding videos and call-the-police records shall be kept for at least 30 days for future check, and enterprises shall not delete or disseminate them.

The logo for SGS, consisting of the letters 'SGS' in a bold, sans-serif font. A vertical orange line is positioned to the right of the letters, and a horizontal orange line is positioned below the letters, forming an L-shaped graphic element.

Enterprises shall not send or allow security guards to prevent legitimate official performance, participate in debt collection, use violent means or threaten to use violent means to settle disputes. Security guards have the right to refuse to implement illegal instructions without fear of dismissal, or financial penalties such as reduction of wages or other benefits or including the enterprise making deductions from their social security premiums.

Enterprises shall not perform security and guarding services to places other than their own property management areas.

Enterprises shall, within 30 days from the date they begin to conduct security services, register at their local public security organ at municipal level and provide materials as follows:

1. Certificate of corporate status;
2. Basic information of the legal representative(s) (chief leader(s) of the organization), person(s) in charge of the department and security guards;
3. Introduction of the area that security services cover;
4. Materials that show the establishment of a security and guarding services management system, post responsibility system and security guards management system.

Enterprises that no longer need security services shall, within 30 days from the date the security services are terminated, withdraw the registration at the public security organ where the registration was filed.

#### PROVISIONS ON THE QUALIFICATIONS OF SECURITY GUARDS

According to the Regulation, Chinese citizens who are over 18, healthy, morally sound and have completed education of junior high school or above can apply for a security guard certificate and be engaged in security services. Applicants must pass an examination organized by the local public security organ at municipal level, meet the above requirements and deposit their fingerprints and other biological information, and will then be issued with a Security Guard Certificate.

Anyone who falls into one of the following items is not allowed to provide security services:

1. Individuals who have been sentenced to detention education, *compulsory* isolated detoxification, rehabilitation through labor or had been engaged in administrative detention over three times;
2. Individuals who have been found guilty of an intentional crime;
3. Individuals whose Security Guard Certificate has been revoked in the last three years;
4. Individuals whose Security Guard Certificate has been revoked twice.

#### AUTHORITY AND RESPONSIBILITIES OF SECURITY GUARDS

According to the Regulation, security guards may take the following actions when providing security services:

1. Check the IDs of people and make records of the vehicles and objects that come into or go out of the service area;
2. Patrol, guard, check, report to the police or monitor in the service area.
3. Security guards shall stop any illegal actions taken place within the service area in a timely manner; if they are not able to stop the actions, they shall call the police and take measures to protect the site.
4. Security guards have the right to refuse to execute illegal orders given by the enterprise.

Security guards shall not be engaged in any of the following:

1. Restricting people's freedom, search their bodies, humiliating or beating them;
2. Detaining or confiscating people's IDs or properties;
3. Disturbing legitimate official performance;
4. Involvement in debt collection, using violence or threatening to use violent means to settle disputes;
5. Altering or disseminating video contents or call-the-police records collected in the normal course of their security services;
6. Infringing personal privacy;
7. Other conducts that violate the laws or regulations.

### CORPORATE LEGAL RESPONSIBILITY SPECIFIED IN THE REGULATION

According to the Regulation, any enterprise that fails to perform its obligations will be investigated for civil penalty or criminal prosecution, these obligations include:

1. Performing security services without license, filing or withdrawal the registration without full compliance with the requirements;
2. Performing security services in places other than its own property management area;
3. Recruiting individuals who do not meet the above requirements to be the security guards;
4. Failing to retain the video contents and call-the-police records collected according to the Regulation;
5. Infringing people's legitimate rights or privacy by using surveillance equipment inappropriately;
6. Altering or disseminating video content or call-the-police records collected by the security service center;
7. Sending or allowing security guards to prevent legitimate activity, participating in debt collection and using violence or threatening to use violent means to settle disputes;
8. Security guards committing crimes or causing grave consequences because of lack of proper management, education and training.

Where personal injury, death or property loss occurs in the process in which a security guard performs his or her services, the employer shall compensate the victim. If the accident happens because of the security guard's intentional actions or gross negligence, the employer may reclaim compensation from the security guard.

### MISCELLANEOUS

Enterprises that have recruited security guards before this Regulation comes into effect shall file at the local public security organs within three months from the date the Regulation becomes effective. Security guards who have been engaged in providing security services before this Regulation comes into effect shall receive proper training organized by their employers within one year from the date the Regulation becomes effective. Applicants who pass the exam

organized by the local public security organ at municipal level, meet the requirements and deposit his / her fingerprints and other biological information, will be issued with a Security Guard Certificate.

This Regulation does not yet specify requirements for where an enterprise receives security guards from a security company. However, enterprises can take some basic steps to protect themselves against future actions including:

- Checking the background of both the company and the security guard
- Specifying service contents and rights and obligations of both parties in the contract
- Ensuring that only lawfully registered security service companies are used. Such companies should have a License of Security and Guarding Services issued by their local public security organ at municipal level and a Corporate Business License issued by its local Industrial and Commercial Administration Bureau.

Source: The Central People's Government of the People's Republic of China

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