

MEMORANDUM TO: Industry Discussion Table

FROM: Catherine McLinden
Director/Registrar
Private Security and Investigative Services Branch

SUBJECT: Employee Misclassification Within the Private Security Industry

DATE: May 26, 2025

The Private Security and Investigative Services Branch (PSISB) would like to clarify its position on the issue referred to as “independent contracting” by industry representatives. This is the practice where a licensed business entity may claim that the licensed individuals whose services they are selling are not employees of their business, but rather contractors that independently, sell their own services to a licensed business entity.

It is PSISB’s position that this practice as encountered by PSISB would likely not be considered independent contracting as an employer-employee relationship exists, despite what the employer may claim. This means that as long as both employer and employee have their respective agency and individual security guard (SG)/private investigator (PI) licences, there are no breaches of sections 6 or 7 of the *Private Security and Investigative Services Act, 2005* (PSISA). However, there may be breaches of other sections of the PSISA and other provincial and/or federal statutes. If, in some cases, a licensed business entity was selling the services of independent contractors who were not themselves licensed to sell their services, then it is PSISB’s position that the independent contractors would be in breach of s. 6 of PSISA and that the licensed business entities selling those services would be parties to that breach.

The impact of the behaviours noted by the industry could be captured as “employee misclassification,” where some licensed businesses may be falsely claiming that their employees are independent contractors to avoid complying with obligations in relation to the *Workplace Safety and Insurance Act, 1997* and taxation, and potentially the *Employment Standards Act, 2000*. Under the PSISA, regardless of how an employee is paid, the maintenance of appropriate records as per O. Reg. 434/07 (Recordkeeping Requirements for Licensed Business Entities), will continue to apply.

Any licensed business entity that engages in employee misclassification would be in violation of clause 3 (1) (a) of O. Reg. 363/07 (Code of Conduct) under the PSISA, as businesses are required to comply with all federal, provincial, and municipal laws. If a PSISB inspection uncovers activities to support a reasonable belief that a licensed business is intentionally misclassifying their employees to avoid compliance with other statutes, PSISB will continue to refer matters to the appropriate regulatory partners (i.e., Ministry of Labour, Immigration, Training and Skills Development, Ministry of Finance, etc.).

If non-compliance is confirmed by our regulatory partner(s), PSISB could take action under subsection 13 (2) of the PSISA on the basis that the business does not demonstrate fitness to hold a licence and initiate the process to revoke the agency licence.

Please share this information across your membership network.

Sincerely,

A handwritten signature in cursive script, appearing to read "Catherine McLinden".

Catherine McLinden
Director/Registrar
Private Security and Investigative Services Branch