

Private Security Industry Regulatory Authority

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**Commencement of the Private Security
Industry Regulation Act, 2001
(Act No. 56 of 2001)**

PROCLAMATION

BY THE

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

No. R. 10,2002

**COMMENCEMENT OF THE PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001
(ACT NO. 56 OF 2001)**

In terms of section 45 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), I hereby fix 14 February 2002 as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Twelfth day of February Two Thousand and Two.

T. M. MBEKI
PRESIDENT
By Order of the President-in-Cabinet

S. V. TSHWETE
Minister of the Cabinet

Security Industry Regulation Act, 2001 (Act No. 56 of 2001)

Gazette No23051
Notice No77
Gazette GOV
Date20020125

THE PRESIDENCY

No. 77
2002

25 January

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:-

NO. 56 OF 2001: PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001.

*(English text signed by the President.)
(Assented to 15 January 2002.)*

ACT

To provide for the regulation of the private security industry; for that purpose to establish a regulatory authority; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the adequate protection of fundamental rights to life and security of the person as well as the right not to be deprived of property, is fundamental to the well-being and to the social and economic development of every person;

AND WHEREAS security service providers and the private security industry in general play an important role in protecting and safeguarding the aforesaid rights;

AND WHEREAS every citizen has the right to freely choose an occupation, including the occupation of security service provider;

AND WHEREAS it is necessary to achieve and maintain a trustworthy and legitimate private security industry which acts in terms of the principles contained in the Constitution and other applicable law, and is capable of ensuring that there is greater safety and security in the country;

BE IT ENACTED THEREFORE, by the Parliament of the Republic of South Africa, as follows:-

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CHAPTER 1

DEFINITIONS

Definitions

1. (1) In this Act, unless the context indicates otherwise-

"Authority" means the Private Security Industry Regulatory Authority established by section 2(1);

"business trust" means a trust created for the purpose of making a profit through the combination of capital contributed by the beneficiaries of the trust and through the administration or management of the capital by trustees or a person acting on behalf of the trustees, for the benefit of the beneficiaries;

"chairperson" means the chairperson of the Council;

"close corporation" means a close corporation within the meaning of the Close Corporations Act, 1984 Act No. 69 of 1984);

"code of conduct" means the code of conduct contemplated in section 28;

"committee" means a committee appointed in terms of section 13;

"company" means a company within the meaning of the Companies Act, 1973 (Act No. 61 of 1973);

"Council" means the Council established by section 6; "councillor" means a member of the Council as contemplated in section 6;

"director" means the director of the Authority appointed in terms of section 14(1); "employ", with regard to a security officer, includes the employment, controlling or making available of the security officer or his or her services or assistance, as contemplated in the definition of "security officer";

"inspector" means a person appointed as an inspector in terms of section 31; "Levies Act" means the Private Security Industry Levies Act;

"locksmith" means a person who, for the benefit of another person, engages in any activity or business which is related to the opening, closing or engaging of locking mechanisms of any nature, by means of a specialised device;

"Minister" means the Minister for Safety and Security;

"National Commissioner" means the National Commissioner contemplated in section 6(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995);

"organ of State" means an organ of State as defined in section 239 of the Constitution (Act No. 108 of 1996), but does not include the Security Services referred to in section 199 of the Constitution;

"person" includes-

- (a) a natural person;
- (b) a partnership;
- (c) a business trust;
- (d) a foundation;
- (e) any company or close corporation incorporated or registered in terms of any law; and
- (f) any other body of persons corporate or unincorporate;

"premises" means any site, place or location regardless of whether it is or forms part of any temporary or permanent structure, building, vessel, vehicle or aircraft;

"prescribe" means prescribe by regulation;

"private investigator" means a person who, in a private capacity and for the benefit of another person, investigates the identity, actions, character, background or property of another person, without the consent of such a person, but does not include-

- (a) auditors, accountants, attorneys, advocates or forensic scientists conducting investigations which fall within the normal and reasonable course and scope of their professional functions;

- (b) internal investigators conducting normal and reasonable investigations into employee misconduct;
- (c) internal investigators conducting investigations which a business, other than an investigating business, may undertake in the course and scope of its normal and reasonable endeavours to safeguard its security, strategic, operational or business interests:

Provided that no person is excluded from the definition of a private investigator if he or she conducts any investigation which falls within the exclusive function of the State;

"private security industry" means the industry conducted by security service providers;

"property" means any movable, immovable or intellectual property, or any right to such property;

"register", with regard to a security service provider, means entering the name of a security service provider in the register contemplated in section 24;

"regulation" means a regulation made in terms of section 35;

"security business" means, subject to subsection (2), any person who renders a security service to another for remuneration, reward, fee or benefit, except a person acting only as a security officer;

"security equipment" means-

- (a) an alarm system;
- (b) a safe, vault or secured container;
- (c) a satellite tracking device, closed circuit television or other electronic monitoring device or surveillance equipment;
- (d) a device used for intrusion detection, access control, bomb detection, fire detection, metal detection, x-ray inspection or for securing telephone communications;
- (e) a specialised device used to open, close or engage locking mechanisms; or
- (f) a specialised device used to reproduce or duplicate keys or other objects which are used to unlock, close or engage locking mechanisms;

"security officer" means any natural person-

- (a) (i) who is employed by another person, including an organ of State, and who receives or is entitled to receive from such other person any remuneration, reward, fee or benefit, for rendering one or more security services; or
- (ii) who assists in carrying on or conducting the affairs of another security service provider, and who receives or is entitled to receive from such other security service provider, any remuneration, reward, fee or benefit, as regards one or more security services;

- (b) who renders a security service under the control of another security service provider and who receives or is entitled to receive from any other person any remuneration, reward, fee or benefit for such service; or
- (c) who or whose services are directly or indirectly made available by another security service provider to any other person, and who receives or is entitled to receive from any other person any remuneration, reward, fee or benefit for rendering one or more security services;

"security service" means one or more of the following services or activities:

- (a) protecting or safeguarding a person or property in any manner;
- (b) giving advice on the protection or safeguarding of a person or property, on any other type of security service as defined in this section, or on the use of security equipment;
- (c) providing a reactive or response service in connection with the safeguarding of a person or property in any manner;
- (d) providing a service aimed at ensuring order and safety on the premises used for sporting, recreational, entertainment or similar purposes;
- (e) manufacturing, importing, distributing or advertising of monitoring devices contemplated in section 1 of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992);
- (f) performing the functions of a private investigator;
- (g) providing security training or instruction to a security service provider or prospective security service provider;
- (h) installing, servicing or repairing security equipment;
- (i) monitoring signals or transmissions from electronic security equipment;
- (j) performing the functions of a locksmith;
- (k) making a person or the services of a person available, whether directly or indirectly, for the rendering of any service referred to in paragraphs (a) to (j) and (l), to another person;
- (l) managing, controlling or supervising the rendering of any of the services referred to in paragraphs (a) to (j);
- (m) creating the impression, in any manner, that one or more of the services in paragraphs (a) to (l) are rendered;

"security service provider" means a person who renders a security service to another for a remuneration, reward, fee or benefit and includes such a person who is not registered as required in terms of this Act;

"security training" means any training, instruction or qualification required in terms of any law before a person may be registered as a security service provider or allowed to render a particular security service;

"serve", in relation to any document or notice required in terms of this Act to be served on any person, means to send such a document or notice by post to the current business, employment or residential address as reflected in the records of the Authority, or to deliver, or to offer to deliver, a copy of the document or notice personally to such person, or at such person's employment or residential address to any person who is apparently over the age of 16 years who resides or is employed at such address;

"Service" means the South African Police Service, established by section 5 of the South African Police Service Act, 1995 (Act No. 68 of 1995);

"this Act" includes the regulations and the code of conduct for security service providers.

- (2) The Minister may, after consultation with the Authority and as long as it does not prejudice the achievement of the objects of this Act, by notice in the Gazette, exempt any service, activity or practice or any equipment or any person or entity from any or all the provisions of this Act.

CHAPTER 2

PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY

Establishment of Private Security Industry Regulatory Authority

2. (1) A juristic person to be known as the Private Security Industry Regulatory Authority, is hereby established.

(2) The head office of the Authority is situated in Pretoria.

Objects of Authority

3. The primary objects of the Authority are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and the interest of the private security industry itself, and for that purpose, subject to this Act, to-
 - (a) promote a legitimate private security industry which acts in terms of the principles contained in the Constitution and other applicable law;
 - (b) ensure that all security service providers act in the public and national interest in the rendering of security services;
 - (c) promote a private security industry which is characterized by professionalism, transparency, accountability, equity and accessibility;
 - (d) promote stability of the private security industry;
 - (e) promote and encourage trustworthiness of security service providers;

- (f) determine and enforce minimum standards of occupational conduct in respect of security service providers;
- (g) encourage and promote efficiency in and responsibility with regard to the rendering of security services;
- (h) promote, maintain and protect the status and interests of the occupation of security service provider;
- (i) ensure that the process of registration of security service providers is transparent, fair, objective and concluded timeously;
- (j) promote high standards in the training of security service providers and prospective security service providers;
- (k) encourage ownership and control of security businesses by persons historically disadvantaged through unfair discrimination;
- (l) encourage equal opportunity employment practices in the private security industry;
- (m) promote the protection and enforcement of the rights of security officers and other employees in the private security industry;
- (n) ensure that compliance with existing legislation by security service providers is being promoted and controlled through a process of active monitoring and investigation of the affairs of security service providers;
- (o) protect the interests of the users of security services;
- (p) promote the development of security services which are responsive to the needs of users of such services and of the community;
- (q) promote the empowerment and advancement of persons who were historically disadvantaged through unfair discrimination in the private security industry.

Functions of Authority

4. The Authority must take steps to achieve its objects with the means at its disposal and may, subject to this Act and any other law, for the purpose of achieving its objects-
 - (a) exercise such powers and perform such duties as may be given or assigned to the authority in terms of this Act or any other law;
 - (b) enquire into and report to the Minister on any matter concerning the objects of the Authority;
 - (c) advise the Minister on any matter deemed by the Authority to be necessary or expedient to be considered by the Minister in connection with the provisions of this Act or the Levies Act, or the application thereof, and on any other matter relating to security services which has been referred by the Minister to the Authority for the advice and recommendations of the Authority;

- (d) conduct an ongoing study and investigation of the rendering of security services and practices of security service providers in order to identify shortcomings in this Act and the Levies Act, or any policy or rule made in terms thereof, and to deal with any evasion, abuse or violation of the procedures or principles contained in this Act or the Levies Act, or any policy or rule made in terms thereof;
- (e) institute legal proceedings and defend or oppose any legal proceedings against the Authority;
- (f) receive and consider applications for registration and renewal of registration as security service provider and grant or renew registration to applicants who comply with the requirements for such registration or renewal of registration in terms of this Act;
- (g) suspend or withdraw the registration status of a security service provider in terms of this Act;
- (h) take such steps as may be necessary to develop and maintain standards and regulate practices in connection with the occupation of security service provider, and persons pursuing or intending to pursue such occupation;
- (i) gather information relevant to the occupation of security service provider in connection with persons who are security service providers or who are applying for registration as such;
- (j) take steps to protect and assist security officers and other employees against or in regard to acts, practices and consequences of exploitation or abuse;
- (k) take such steps as may be expedient or necessary in connection with the training of security service providers and prospective security service providers to ensure a high quality of training and in particular with regard to-
 - (i) the accreditation and withdrawal of the accreditation of persons and institutions providing security training;
 - (ii) the monitoring and auditing of the quality of training functions performed by accredited persons;
 - (iii) the participation in the activities of other bodies or persons entitled by law to set standards in respect of training of security service providers or bodies entitled to formulate, implement or monitor skills development plans for the private security industry;
 - (iv) the appointment of persons to monitor and assess achievements or outcomes in respect of standards applicable to training;
 - (v) the determination and accreditation of qualifications required by security service providers to perform particular types of security services; and
 - (vi) the taking of reasonable steps to verify the authenticity of training certificates presented by persons for the purposes of this Act;

- (l) cause its work to be performed by persons employed or appointed by it in terms of this Act;
- (m) develop and maintain a computerised data base with information required for the proper performance of its functions;
- (n) establish and manage branch offices;
- (o) provide or disseminate information promoting and encouraging compliance with this Act, the Levies Act and the code of conduct, by security service providers;
- (p) provide information to the users, prospective users or representatives of users of security services regarding the compliance of security service providers with the provisions of this Act and the Levies Act;
- (q) establish a guarantee fund for the private security industry which is managed in the prescribed manner;
- (r) in the prescribed manner establish a complaints office to receive, process, refer or deal with complaints regarding the quality of service rendered by security service providers;
- (s) furnish information required by any department or any organ of State for the purposes of its official functions;
- (t) receive, expend and generally administer funds;
- (u) open accounts with any banking or other financial institution approved by the Treasury;
- (v) invest money with financial institutions registered in terms of any law;
- (w) determine, charge and collect fees as provided for in this Act or in respect of any service rendered by the Authority or any object made available by the Authority;
- (x) acquire or hire movable or immovable property, or hypothecate, let, sell or otherwise dispose of movable or immovable property of the Authority;
- (y) accept donations with the approval of the Minister;
- (z) raise finance from other sources in the course of normal business;
 - (aa) manage and safeguard its assets;
 - (bb) determine minimum internal control systems for security businesses, including but not limited to, accounting and reporting procedures and any other procedures or systems;
 - (cc) become a member of an association or organisation which seeks to promote any matter in which the Authority has an interest;

- (dd) establish relations with or enter into co-operation agreements with bodies or offices regulating the private security industry in other countries, or bodies representing such regulators;
- (ee) conduct, or cause to be conducted, hearings, investigations and inquiries with regard to any matter falling within the scope of its functions;
- (ff) enter into contracts including insurance agreements;
- (gg) enter into agreements with or obtain the assistance of any department or organ of State to conduct or assist it in conducting any investigation or performing any other function in terms of this Act or the Levies Act;
- (hh) cooperate with any person or body in the performance of an act which the Authority by law is permitted to perform; and
- (ii) generally perform any act that contributes to the attainment of its objects.

Governance of Authority

5. (1) The Authority is governed and controlled by the Council contemplated in section 6, in accordance with this Act.
- (2) The Authority acts through the Council and all acts of the Council are regarded as acts of the Authority.
- (3) The Authority must be impartial in the performance of its functions and must ensure that in the taking of decisions or other steps, it complies with all legal requirements for just administrative action.
- (4) The Authority must otherwise perform its functions in terms of this Act and the Levies Act and in accordance with such guidelines and policy directions as may be issued by the Minister from time to time by notice in the Gazette.
- (5) A guideline or policy direction issued by the Minister in terms of this section, may be amended, withdrawn or substituted by the Minister, by notice in the Gazette.

Establishment and constitution of Council and appointment of councillors

6. The Council for the Authority is hereby established and consists of the following councillors:
 - (a) a chairperson;
 - (b) a vice-chairperson; and
 - (c) three additional councillors,
 appointed by the Minister in consultation with Cabinet.

Disqualifications for appointment as councillor

7. A person may not be appointed as a councillor if such person-
- (a) is not a citizen of or does not have permanent resident status in the Republic;
 - (b)
 - (i) has a direct or indirect financial or personal interest in the private security industry; or
 - (ii) represents or is a member of a body representing the interests of employers or employees in the private security industry or security officers or any security business;
 - (c) is not a fit and proper person to hold office as a councillor;
 - (d) is an unrehabilitated insolvent; or
 - (e) has not obtained such a security clearance by the National Intelligence Agency as may have been determined by the Minister.

Terms and conditions of office, vacation of office and payment of remuneration and allowances

8. (1) A councillor is, subject to this section, appointed for a period not exceeding three years, on such terms and conditions as the Minister may determine in a letter of appointment.
- (2) A councillor is eligible for reappointment upon the expiry of his or her term of office, for a period not exceeding two additional terms, if he or she continues to meet the requirements for such appointment in terms of this Act.
- (3) A councillor vacates office when-
- (a) he or she becomes subject to any disqualification referred to in section 7;
 - (b) he or she has been absent from three consecutive meetings of the Council without leave of the Council;
 - (c) he or she is removed from office in terms of subsection (4); or
 - (d) his or her written resignation is accepted.
- (4) A member of the Council may at any time be suspended or removed from office by the Minister if there is a sound reason therefor.
- (5) If a councillor ceases to hold office the Minister must, with due regard to section 7, within a reasonable time appoint a person to fill the vacancy for the unexpired portion of the former councillor's term of office.
- (6) A councillor, or a member of a committee appointed by the Council, who is not an employee of the Authority or an officer or employee in the Public Service, may be paid from the funds of the Authority such remuneration and allowances as the Council may determine with the concurrence of the Minister.

- (7) The remuneration and allowances referred to in subsection (6) may differ according to different offices held by councillors or other persons or the different functions performed by them.

Functions of Council and chairperson

9. (1) The Council-
- (a) must take steps to achieve the objects of the Authority contemplated in section 3 and to ensure performance of the duties of the Authority;
 - (b) must oversee and exercise general control over the performance of the functions of the Authority and of the activities of the persons appointed by it to perform the work of the Authority; and
 - (c) may by notice in the Gazette make rules, subject to the provisions of this Act and the Levies Act, regarding-
 - (i) the good management of the affairs of the Council and the effective execution of its functions; and
 - (ii) any matter necessary or expedient for the proper performance of the functions of the Authority.
- (2) The chairperson-
- (a) may, subject to ratification by the Council, exercise any power of the Council or fulfil any of its duties;
 - (b) must prepare the agenda of meetings of the Council;
 - (c) must sign the minutes of meetings of the Council;
 - (d) must provide strategic direction to the director and the Council;
 - (e) may attend meetings of the senior management of the staff of the Authority; and
 - (f) must establish and maintain liaison with the Secretariat for Safety and Security to ensure transformation in the Private Security Industry.

Accountability of Council

10. (1) The Council is accountable to the Minister for the performance of its functions and must-
- (a) supply the Minister with such information and particulars as the Minister may in writing require in connection with the functions of the Authority or any other matter relating to the Authority;
 - (b) as soon as may be reasonably practicable after the end of each financial year, but in any event within three months of the end of the financial year, supply the Minister with a copy of-

- (i) the annual report on the activities of the Authority and the Council; and (ii) the audited financial statements contemplated in section 18(1), including any notes to the financial statements and the audit opinion of a duly appointed auditor contemplated in section 18(2); and
- (c) table a copy of the annual report contemplated in paragraph (b)(i) in Parliament and present such further reports to Parliament as Parliament may request.
- (2) For the purposes of this section, the annual report contemplated in subsection (1)(b)(i), must contain a fair account of the regulatory activities of the Authority, information on any other matter required by the Minister in writing, and information on any matter which it is necessary or expedient to bring to the attention of the Minister.

Ministerial supervision of Authority

11. If the Council or the Authority cannot or does not maintain an acceptable standard in the fulfilment of one or more of its functions in terms of this Act or the Levies Act, the Minister may intervene by taking any appropriate step to ensure proper fulfilment of that function, including-
- (a) issuing a directive to the Council or the Authority, describing the extent of the failure and stating the steps required to remedy the situation;
 - (b) assuming responsibility for the relevant function or duty to the extent necessary-
 - (i) to maintain an acceptable standard; or
 - (ii) to prevent the Council, the Authority or any person appointed by the Council or the Authority, from taking any action which is prejudicial to the objects of the Authority;
 - and
 - (c) dissolving the Council and appointing a new Council.

Meetings and conflict of interests

12. (1) (a) The first meeting of the Council must be held on such date and at such a time and place as the Minister may determine.
- (b) All meetings of the Council thereafter must be held on such dates and at such times and places as the chairperson may determine in consultation with the Council.
- (2) (a) The chairperson may at any time convene a special meeting of the Council and must also convene such a meeting at the written request of the Minister.
- (b) If at least three councillors request a special meeting in writing, the chairperson must convene such a meeting within seven days after receiving the request.

- (3) The quorum for any meeting of the Council is a simple majority of the councillors in office at the time.
- (4) (a) Subject to subsection (3), a decision of the Council is taken by resolution agreed to by the majority of councillors at any meeting of the Council.

(b) In the event of an equality of votes regarding any matter, the chairperson has a casting vote in addition to his or her deliberative vote.
- (5) The procedure at a meeting of the Council must be determined by the chairperson in consultation with the Council, and any decision in this regard must be taken after due consideration of transparency and fairness: Provided that the law generally applicable to meeting procedures in South Africa must apply in the absence of a determination or agreement on the procedure to be followed.
- (6) The chairperson may, after consultation with the Council, require the director or a deputy director contemplated in section 14(1) and allow any person to attend any meeting of the Council on such conditions as the chairperson may determine.
- (7) A decision taken by the Council or an act performed in terms of that decision, is not invalid merely by reason of-
 - (a) any irregularity in the appointment of a councillor;
 - (b) a vacancy on the Council;
 - (c) the fact that any person was not entitled to sit as councillor at the time the decision was taken; or
 - (d) the fact that a councillor is guilty of an act or omission justifying his or her removal from office, if such decision was taken by a majority of councillors present at the time and entitled so to sit, and those councillors at the time constituted a quorum in terms of subsection (3).
- (8) A councillor may not attend, vote at, participate in or influence any meeting or decision of the Council, if the councillor has a conflict of interests which may reasonably be seen to preclude the councillor from performing the relevant function in a fair, unbiased and proper manner.
- (9) When the chairperson is absent or is unable to perform functions as chairperson or whenever the office of the chairperson is vacant, the vice-chairperson must act as chairperson during such absence or incapacity or until a chairperson is appointed.
- (10) (a) If both the chairperson and the vice-chairperson are absent or unable to perform the functions of the chairperson, the Council must appoint any other member to act as chairperson during such absence or incapacity.

(b) If both the office of the chairperson and that of the vice-chairperson are vacant, the Minister must appoint any other person to act as chairperson until a chairperson or vice-chairperson is appointed.

Committees to assist Council

13. (1) The Council may appoint one or more committees consisting of one or more councillors, or one or more councillors and one or more other persons, or one or more

other persons to advise or assist the Authority in relation to any matter referred to it by the Council and to report on that matter to the Council.

- (2) The Council may establish committees representing different sectors, disciplines or interests in the private security industry to advise it regarding the regulation of the private security industry.
- (3) The Council may designate a person as the chairperson of any committee if such committee consists of more than one member.
- (4) A committee must perform its functions subject to the provisions of this Act, the Levies Act and any directives of the Council.
- (5) The Council is not legally bound to accept any recommendation made by a committee.

Staff of Authority

14. (1) The Council must appoint a suitably qualified and experienced person as the director of the Authority, as well as three deputy directors, on such conditions and terms as may be determined by the Council.
- (2) The director and deputy directors of the Authority must, subject to the Council's direction and control-
 - (a) establish administrative structures and divisions necessary for the performance of the functions of the Authority, which must include an office of the director, a finance and administration division, a law enforcement division and a training and communication division;
 - (b) manage the day to day operations of the Authority and the execution of its financial and administrative, law enforcement, training, communication and other functions;
 - (c) ensure that the functions of the Authority are performed in terms of this Act and the Levies Act;
 - (d) manage, control and oversee the staff of the Authority as well as the performance of their functions;
 - (e) report to the Council on the performance and functioning of the Authority;
 - (f) prepare the business plan of the Authority; and
 - (g) perform any other function assigned to them by the Council.
- (3) The director and deputy directors of the Authority may in writing, with the approval of the Council, delegate any of their powers, and assign any of their duties, to a staff member of the Authority.
- (4) (a) The director of the Authority may appoint, subject to this Act and to the general or special directions of the Council, the staff of the Authority that may be necessary to perform the work arising from or connected with the Authority's functions in terms of this Act and the Levies Act.

- (b) The director must in the appointment of staff provide for the advancement of persons historically disadvantaged by unfair discrimination, with the aim that its staff, when viewed collectively, must represent a broad cross-section of the population of the Republic and must generally apply equal employment opportunity practices.
 - (c) Staff members of the Authority may not have any financial interest in the private security industry and must successfully undergo such security clearance check conducted by the National Intelligence Agency, as may be determined by the Council if this is relevant in respect of their work.
- (5) Staff appointed in terms of this section may either be appointed as employees or in terms of a contract for a fixed period.
- (6) The terms and conditions of service of the Authority's staff and their remuneration, allowances, subsidies and other service benefits must be determined by the Council from time to time.

Delegation of powers and assignment of duties by Council

15. (1) Subject to subsection (5), the Council may assign any of its functions or duties and delegate any of its powers, except the power to make rules, to its chairperson or to any committee appointed in terms of section 13.
- (2) The Council is neither divested of any power nor relieved of any duty it may have delegated or assigned.
- (3) Any delegation or assignment-
- (a) may be made subject to any conditions determined by the Council;
 - (b) may be given together with the power to sub-delegate or further assign, subject to such conditions as may be determined; and
 - (c) must be communicated to the delegatee or assignee in a written notice which contains sufficient particulars of the matters being delegated or assigned and of the conditions attached thereto.
- (4) The Council may at any time amend or revoke a delegation or assignment in terms of subsection (1), or withdraw any decision made by the delegatee or assignee with regard to a delegated or assigned matter and decide the matter itself, unless the decision by the delegatee has conferred a right on a third party.
- (5) The Minister may in a notice addressed to the Council prohibit, limit, or impose conditions regarding the-
- (a) delegation of any power of the Council; or
 - (b) assignment of any duty of the Council.

Funds of Authority

16. (1) The funds of the Authority consist of money from any legitimate source, received by or which has accrued to the Authority in terms of this Act or any other law.

- (2) The Authority must use its funds for defraying the expenditure incurred in the achievement of its objects and the performance of its functions in terms of this Act and the Levies Act.

Bookkeeping and financial statements

17. (1) The Authority must keep such accounting records as are necessary to reflect the transactions and financial state of affairs of the Authority.
- (2) The Authority must, in respect of each financial year of the Authority, make out financial statements and cause such statements to be audited by a registered accountant and auditor contemplated in section 18(2).
- (3) The financial statements referred to in subsection (2) must-
- (a) be prepared in accordance with generally accepted accounting practice as determined by the South African Institute of Chartered Accountants;
 - (b) by means of figures and a descriptive report, explain all matters and information material to the financial affairs of the Authority; and
 - (c) include-
 - (i) a balance sheet dealing with the assets and liabilities of the Authority;
 - (ii) an income statement or any similar financial statement dealing with the income and expenditure of the Authority; and
 - (iii) a statement of cash flows.

Auditing

18. (1) The accounting records and annual financial statements of the Authority must be audited annually by persons appointed by the Council.
- (2) No person may be appointed in terms of subsection (1), unless he or she is registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), as an accountant and auditor engaged in public practice.

Financial year

19. The financial year of the Authority is a year ending on 31 March.

CHAPTER 3

REGISTRATION AS SECURITY SERVICE PROVIDER

Obligation to register and exemptions

20. (1) (a) No person, except a Security Service contemplated in section 199 of the Constitution (Act No. 108 of 1996), may in any manner render a security service for remuneration, reward, a fee or benefit, unless such a person is registered as a security service provider in terms of this Act.
- (b) A Security Service contemplated in section 199 of the Constitution may use persons employed by them and who are not registered as security service providers to render a security service.
- (2) A security business may only be registered as a security service provider-
- (a) if all the persons performing executive or managing functions in respect of such security business are registered as security service providers; and
- (b) in the case of a security business which is a company, close corporation, partnership, business trust or foundation, if every director of the company, every member of the close corporation, every partner of the partnership, every trustee of the business trust, and every administrator of the foundation, as the case may be, is registered as a security service provider.
- (3) Any contract, whether concluded before or after the commencement of this Act, which is inconsistent with a provision contained in subsections (1), (2) or section 44(6), is invalid to the extent to which it is so inconsistent.
- (4) The invalidity of a contract as contemplated in subsection (3), does not affect the applicability of any provision of this Act or the Levies Act.
- (5) The Minister may, after consultation with the Authority, by notice in the Gazette exempt any security service provider or security service provider belonging to a category or class specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of any provision of this Act.

Application for registration

21. (1) An application for registration as a security service provider must be made to the Authority in the prescribed manner and must be accompanied by-
- (a) a clear and complete set of fingerprints taken in the prescribed manner-
- (i) of the applicant, if the applicant is a natural person;
- (ii) if the applicant is a security business, of every natural person performing executive or managing functions in respect of such security business;
- (iii) of each director, if the applicant is a company;
- (iv) of each member, if the applicant is a close corporation;

- (v) of each partner, if the applicant is a partnership;
 - (vi) of each trustee, if the applicant is a business trust; and
 - (vii) of each administrator or person in control, if the applicant is a foundation.
- (b) the application fee as determined by the Authority; and
 - (c) any other document or certificate required in terms of this Act or by the Authority to be submitted with an application for registration.
- (2) Any person applying in terms of subsection (1) for registration as a security service provider, must furnish such additional particulars in connection with the application as the Authority may determine.
- (3) If the Authority is of the opinion that the provisions of this Act have been complied with in respect of an application referred to in subsection (1), it may grant such application and register the applicant as a security service provider.

Renewal of registration

22. The Minister may prescribe procedures and principles in respect of periodic applications for the renewal of registration by registered security service providers and the conditions and requirements for the granting of such applications.

Requirements for registration

23. (1) Any natural person applying for registration in terms of section 21(1), may be registered as a security service provider if the applicant is a fit and proper person to render a security service, and-
- (a) is a citizen of or has permanent resident status in South Africa;
 - (b) is at least 18 years of age;
 - (c) has complied with the relevant training requirements prescribed for registration as a security service provider;
 - (d) was not found guilty of an offence specified in the Schedule within a period of 10 years immediately before the submission of the application to the Authority;
 - (e) was not found guilty of improper conduct in terms of this Act within a period of five years immediately before the submission of the application to the Authority;
 - (f) submits a prescribed clearance certificate, together with such other information as the Authority may reasonably require, if the applicant is a former member of any official military, security, police or intelligence force or service in South Africa or elsewhere;
 - (g) is mentally sound;

- (h) is not currently employed in the Public Service in circumstances where such registration may conflict with a legislative provision applicable to the applicant;
 - (i) has paid the relevant application fee; and
 - (j) is not a person referred to in subsection (5).
- (2) A security business applying for registration as a security service provider in terms of section 21(1), may be so registered only if-
- (a) every natural person referred to in section 20(2) complies with the requirements of subsection (1) and is not an unrehabilitated insolvent; and
 - (b) such security business meets the prescribed requirements in respect of the infrastructure and capacity necessary to render a security service.
- (3) The Authority may cause any inspection to be held which it deems necessary to establish whether an applicant meets the requirements contemplated in subsection (2)(b), against payment by the applicant of an amount determined by the Authority for this purpose.
- (4) The Authority may refuse the registration of any person who-
- (a) at the time of submission or consideration of the application, is under State investigation in respect of an offence specified in the Schedule or who is being criminally prosecuted in respect of such an offence; or
 - (b) was convicted of an offence specified in the Schedule more than 10 years immediately before the submission of the application for registration to the Authority.
- (5) Despite any provision to the contrary, a person in the permanent employ of the Service, the Directorate of Special Operations, the National Intelligence Agency, the South African Secret Service, the South African National Defence Force or the Department of Correctional Services may not be registered as a security service provider whilst so employed.
- (6) Despite the provisions of subsections (1) and (2), the Authority may on good cause shown and on grounds which are not in conflict with the purpose of this Act and the objects of the Authority, register any applicant as a security service provider.

Register of security service providers

24. The Authority must keep a register in which it must enter the name and prescribed particulars of every security service provider registered in terms of this Act.

Registration and identification certificates

25. The Authority must, in the form prescribed and on such conditions as it may determine, issue a certificate of registration to any person and a certificate of identification to any natural person, registered as a security service provider.

Suspension, withdrawal and lapsing of registration

26. (1) If there is a prima facie case of improper conduct in terms of this Act, or of the commission of an offence referred to in the Schedule, against a security service provider, the Authority may suspend the registration of the security service provider-
- (a) pending the conclusion of an investigation or enquiry by the Authority into the alleged improper conduct; or
 - (b) pending the conclusion of the criminal investigation by the State into the offence in respect of that security service provider, or a determination by the prosecuting authority or the finalisation of criminal proceedings in regard to the offence.
- (2) The Authority may suspend the registration of a security business if any of the grounds contemplated in subsection (1) pertain to a natural person referred to in section 20(2).
- (3) The effect of a suspension of registration is that the security service provider whose registration is suspended may not render any security service, unless the prior written permission of the Authority has been obtained, but during the period of such suspension the security service provider is still bound by all the obligations of a registered security service provider provided for in this Act and in the Levies Act.
- (4) The Authority may, subject to section 5(3), withdraw the registration of a security service provider by written notice served on the security service provider if-
- (a) the security service provider has furnished to the Authority information in or in connection with the application for registration which is false;
 - (b) there was some material irregularity in the registration of the security service provider concerned;
 - (c) the registration was granted in error or on the basis of incorrect information furnished by any person, including any department or organ of State, to the Authority;
 - (d) at any time after registration, the security service provider-
 - (i) is found guilty of an offence specified in the Schedule;
 - (ii) is found guilty of improper conduct in terms of this Act;
 - (iii) is no longer a fit and proper person to render a security service; or
 - (iv) does not comply with one or more of the requirements for registration referred to in section 23(1)(a), (b), (g), (h) and (j), or in section 23(2);
 - (e) in the case of a security business, the registration of a person referred to in section 20(2) is withdrawn in terms of paragraphs (a), (b), (c) or (d); or in the case of a security business, any of the persons referred to in section 20(2) is for any other reason not registered as a security service provider.
- (5) The registration of a security service provider lapses if it is not renewed as contemplated in section 22.

- (6) Whenever the registration of a security service provider is suspended or withdrawn in terms of this Act or the Levies Act, or if it lapses, the security service provider must forthwith return to the Authority the certificate of identification or the certificate of registration, as the case may be, issued in terms of section 25.
- (7) The Authority may on application by a security service provider suspend or withdraw the registration of that security service provider in such circumstances and on such conditions as may be prescribed.
- (8) The Authority may uplift the suspension of the registration of a security service provider if there is reason to do so.

Application for court order in respect of a security service provider

27. (1) The Authority may by way of application on notice of motion apply to a court for an order-
- (a) interdicting any security service provider from rendering a security service for such a period as the court may determine, if the security service provider is contravening a provision of this Act or if the activities or intended activities of the security service provider might seriously harm the national or the public interest or the interests of any category of persons; or
 - (b) compelling a security service provider to comply with a provision of this Act.
- (2) The court having jurisdiction in respect of an application in terms of subsection (1), is any division of the High Court of South Africa within whose area of jurisdiction the security service provider concerned is resident, employed or carries on business.

CHAPTER 4

PROPER CONDUCT AND APPEAL

Code of conduct

28. (1) The Minister must, after consultation with the Council, prescribe a code of conduct for security service providers which contains sufficient procedures and rules of evidence for its enforcement.
- (2) The code of conduct is legally binding on all security service providers, irrespective of whether they are registered with the Authority or not and, to the extent provided for in this Act, on every person using his or her own employees to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control.
- (3) The code of conduct must contain rules-
- (a) that security service providers must obey in order to promote, achieve and maintain-
 - (i) a trustworthy and professional private security industry which acts in terms of the law applicable to the members of the industry;
 - (ii) compliance by security service providers with a set of minimum standards of conduct which is necessary to realize the objects of the Authority; and
 - (iii) compliance by security service providers with their obligations towards the State, the Authority, consumers of security services, the public and the private security industry in general; and
 - (b) to ensure the payment of minimum wages and compliance with standards aimed at preventing exploitation or abuse of employees in the private security industry, including employees used to protect or safeguard merely the employer's own property or other interests, or persons or property on the premises of, or under the control of the employer.
- (4) The code of conduct must be drawn up with due regard to-
- (a) the objects of the Authority; and
 - (b) the different categories or classes of security service providers, different types of security services and any other factor meriting differentiation not amounting to unfair discrimination.
- (5) The code of conduct may provide for different penalties in respect of different categories or classes of security service providers or other persons who employ a security officer.
- (6) (a) The code of conduct drawn up in terms of subsection (1) must first be published by the Minister in the Gazette with a notice indicating that the Minister intends to issue such a code and inviting interested persons to submit to the Minister within a stated period, but not less than four weeks from the date of publication of the notice, any objections to or representations

concerning the proposed code of conduct: Provided that, if the Minister after the expiry of that period decides on any alterations of the proposed code as a result of any objections or representations, it is not necessary to publish such alterations for further comment.

- (b) The provisions of paragraph (a) apply with regard to any amendment of the code of conduct.
- (7) (a) A code of conduct comes into operation on a date determined by the Minister in the Gazette.
- (b) The Minister may for the purposes of paragraph (a) determine different dates in respect of different categories or classes of security service providers.

Improper conduct proceedings against security service providers

- 29. (1) Improper conduct proceedings may, in the prescribed manner, be instituted by the Authority against a security service provider or other person who employs a security officer, on account of an allegation of improper conduct, whether such improper conduct was allegedly committed within or outside the borders of the Republic.
- (2) The person presiding at improper conduct proceedings may, on good grounds, conduct or proceed with such proceedings in the absence of the security service provider concerned.

Appeal against decisions

- 30. (1) Any person aggrieved by-
 - (a) the refusal by the Authority to grant his or her application for registration as a security service provider;
 - (b) the suspension or withdrawal of his or her registration as a security service provider by the Authority; or
 - (c) a finding against him or her, of improper conduct in terms of this Act, or the punishment imposed in consequence of the finding, may within a period of 60 days after service of the notification of the relevant decision contemplated in paragraph (a), (b) or (c), appeal to an appeal committee.
- (2) An appeal committee contemplated in subsection (1) is appointed by the Minister for every appeal and consists of-
 - (a) a person with not less than five years' experience as an attorney, advocate or magistrate, who is the presiding officer; and may also include
 - (b) two other persons if it is considered appropriate by the Minister.
- (3) Every person serving as a member of an appeal committee must be independent from the Authority and may have no personal interest in the private security industry or in the affairs of an appellant.
- (4) The procedure in connection with the lodging and prosecution of an appeal in terms of this section must be prescribed.

- (5) The amounts payable by an appellant to the Authority in respect of the reproduction of records and related matters in the lodging and prosecution of an appeal must be prescribed.
- (6) The appeal committee hearing an appeal in terms of this section may confirm, set aside or vary the decision or substitute for such decision any other decision which in the opinion of the appeal committee ought to have been taken and direct the Authority to do everything necessary to give effect to the decision of the appeal committee.
- (7) A member of the appeal committee may be paid such remuneration and allowance as the Minister may, from time to time, determine with the concurrence of the Minister of Finance.

CHAPTER 5

MONITORING AND INVESTIGATION

Appointment of inspectors

31. (1) (a) Subject to the provisions of this Act, the Council must appoint inspectors as staff members of the Authority in terms of this Act.
- (b) The provisions of section 14 apply, with the necessary changes, to the appointment of such inspectors.
- (2) Any person appointed in terms of this section must perform functions in terms of this Act and any other law, subject to the direction and control of the director.
- (3) The director must furnish every inspector with a certificate in the prescribed form to the effect that he or she has been so appointed and is deemed by virtue of section 34(3) of this Act to be a peace officer.
- (4) An inspector must at the request of any interested person produce the certificate when performing a function in terms of this Act.
- (5) The Council, or the director if he or she has been authorized generally or specifically by the Council, may, if it is considered necessary in the circumstances to acquire special expertise or to augment the capacity of the Authority temporarily, appoint any person, who is not in the full-time employment of the Authority, as an inspector for a particular inspection or to assist an inspector with a particular inspection.
- (6) A person appointed in terms of subsection (5), for the purpose of an inspection, has the same powers and duties as an inspector contemplated in subsection (1) and the provisions of subsections (3) and (4) and section 14 apply, with the necessary changes, to such a person.
- (7) When performing any function in terms of this Act, an inspector may be accompanied by and utilise the services of an assistant, an interpreter or any member of the Service.

Code of conduct for inspectors

32. (1) The Council must draw up a code of conduct for inspectors which is legally binding on all the inspectors employed by it.
- (2) The code of conduct must contain rules relating to compliance by inspectors with a set of minimum standards of conduct which is necessary to realize the objects of the Authority.
- (3) The code of conduct must provide for penalties for a contravention of the code of conduct.

Inspection of security service providers

33. (1) An inspector may, subject to any direction of the director, carry out an inspection of the affairs or any part of the affairs of a security service provider, of any other person

who employs a security officer, or of a person whom the director has reason to believe is a security service provider or employs a security officer.

- (2) An inspector who carries out an inspection in terms of this section must, on completion of the inspection, compile a report of the inspection, provide a copy thereof to the relevant security service provider or other person contemplated in subsection (1) and submit the original to the director.

Powers of inspectors relating to security service providers

34. (1) In order to carry out an inspection of the affairs of a security service provider or another person contemplated in section 33, an inspector may at any reasonable time-

- (a) without prior notice, enter any premises-
 - (i) occupied by or used in connection with the rendering of a security service by a security service provider or another person contemplated in section 33;
 - (ii) which the director has reason to believe are occupied by or used in connection with the rendering of a security service by a security service provider or another person contemplated in section 33; or
 - (iii) where or from where a security service is rendered or the director has reason to believe that such a service is rendered;
- (b) use any applicable equipment which has not been prohibited by the Council during such inspection and conduct such inspection, examination and investigation as may be necessary for the purpose of monitoring or enforcing compliance with this Act or the Levies Act;
- (c) use any computer system or equipment on the premises which is or appears to be utilised for the control or administration of the rendering of a security service, or require reasonable assistance from any person on the premises to use that computer system to-
 - (i) access any data contained in or available to that computer system relating to matters contemplated in paragraph (d);
 - (ii) reproduce any record from that data; and
 - (iii) seize, against the issue of a receipt, any output from that computer for examination and copying;
- (d) require from any person on the premises who is in control of the premises or appears to be performing managerial, supervisory, administrative or clerical functions relating to the rendering of a security service, at such a reasonable time and place as may be determined by the inspector-
 - (i) to disclose information, either orally or in writing, on any matter relating to the compliance with the provisions of this Act or the Levies Act, by the security service provider or other person contemplated in section 33, concerned;

- (ii) to produce to the inspector all or any records or documentation relating to the activities of the security service provider or other person contemplated in section 33, and pertaining to such a period as may be determined by the inspector, including but not limited to-
 - (aa) a list with the names and identity numbers of all security officers 2 and other employees of the security service provider or other person contemplated in section 33 concerned, as well as a list with the names and identity numbers of all persons who are officials of the security service provider or other person contemplated in section 33, but who are not its employees;
 - (bb) the wage register, payroll, pay-slips or other similar documentation in respect of such security officers, officials and employees;
 - (cc) time-sheets and attendance registers reflecting the hours of work of such security officers, officials and employees;
 - (dd) posting sheets indicating the places where such security officers 3 have been or are utilised in connection with a security service, the nature of such service, whether the security officers are in possession of any firearm or other weapon or have been provided with any firearm or other weapon by anyone and any legal authorisation regarding such a firearm;
 - (ee) documentation indicating the level of security training of such security officers and officials;
 - (ff) personnel files of such security officers, officials and employees;
 - (gg) contracts entered into between the security service provider or other person contemplated in section 33, and such security officers, officials and employees;
 - (hh) documentation pertaining to deductions and payment of amounts by the security service provider or other person contemplated in section 33, to the Authority; and
- (iii) documentation pertaining to any contract between the security service provider or other person contemplated in section 33, and a client;
- (e) search the premises for any records or documentary information contemplated in paragraph (d);
- (f) open any room, strongroom, safe, cabinet or other container which the inspector suspects contains any record or document relating to the affairs of the security service provider or other person contemplated in section 33, or cause it to be opened;

- (g) inspect or examine any record or document contemplated in paragraph (d), or other article or object on or in the premises used or which appears to be used in connection with the rendering of a security service by the security service provider or other person contemplated in section 33 concerned and request information about any such document, article or object from any person contemplated in paragraph (c);
 - (h) make copies or extracts from any record or document contemplated in paragraph (d) or, against the issue of a receipt by the inspector, seize a record, document or object if the inspector has reason to believe that it can serve as evidence at any improper conduct proceedings or any other inquiry in terms of this Act.
- (2) Any person from whose possession any item contemplated in subsection (1) has been removed, or who otherwise to the satisfaction of the director or an inspector proves a right of ownership or possession in respect thereof, may during normal office hours be permitted by the director or inspector to investigate or examine the item in question, or extracts from any such record or document, under circumstances necessary to protect the integrity of the item in question.
- (3) (a) An inspector in respect of any provision of this or any other law applicable to security service providers is deemed to have been appointed as a peace officer by the Minister of Justice in terms of section 334 of the Criminal Procedure Act, 1977 (Act No 51 of 1977), for the national territory of the Republic, and for the purpose of exercising the powers contemplated in sections 40, 41, 44, 45,46,47,48,49 and 56 of the Criminal Procedure Act, 1977.
- (b) An inspector may use the powers in terms of this subsection only to serve the purposes of this Act and matters incidental thereto.
- (4) A member of the Service or an inspector may demand the production of the registration and identification certificate contemplated in section 25, by any person purporting to be a security service provider.
- (5) Any member of the Service has all the powers conferred on an inspector in terms of this Act and the Levies Act.

CHAPTER 6
GENERAL PROVISIONS

Regulations

35. (1) The Minister may make regulations relating to-
- (a) any matter which in terms of this Act is required or permitted to be prescribed;
 - (b) the registration by the Authority of security service providers;
 - (c) the periodic applications for renewal of registration and the conditions upon which such applications are to be granted;
 - (d) the obligatory undergoing of security training by security service providers;
 - (e) ensuring the quality of training as contemplated in section 4(k) or any other law, in respect of security service providers and prospective security service providers;
 - (f) the uniform, insignia and registration and identification certificates of security service providers;
 - (g) the types of uniforms, distinctive badges or buttons which may not be supplied to or worn by a security service provider;
 - (h)
 - (i) the procedure for the institution and conduct of improper conduct proceedings or any other inquiry in terms of this Act;
 - (ii) the appointment, powers and duties of presiding officers and other officials in respect of such proceedings or any other inquiry in terms of this Act;
 - (iii) the attendance by a security service provider or any witness, of improper conduct proceedings or any other inquiry in terms of this Act;
 - (iv) cost orders with regard to improper conduct proceedings;
 - (v) the procedure for the payment and collection of fines imposed in respect of improper conduct;
 - (vi) competent findings and other appropriate orders in respect of improper conduct;
 - (vii) the confirmation, review or substitution of any finding, punishment or other order contemplated in subparagraph (vi), or the setting aside thereof, by the Authority;
 - (i) the establishment, management and functioning of a guarantee fund for the private security industry;

- (j) the establishment and operation of a complaints office as contemplated in section 4(r);
 - (k) the compulsory keeping of records and documents concerning the management, administration and other matters relating to the rendering of a security service and the format for keeping the records and documents, including the premises where the records and documents must be kept available;
 - (l) the types of information which security service providers must furnish to the Authority;
 - (m) the issuing, possession and use of firearms and other weapons by security service providers;
 - (n) the safe-keeping and disposal of records, documents and other objects seized in terms of this Act;
 - (o) the training, registration, use, treatment, transportation and general care of working animals by security service providers and other persons who employ security officers, in or in connection with rendering a security service, as well as the registration of training centres with regard thereto;
 - (p) the information to be furnished by security businesses to consumers or prospective consumers of security services;
 - (q) the advertising of the services of security service providers and of security equipment;
 - (r) the use of certain types of equipment by security service providers in the rendering of a security service;
 - (s) the manufacture, importation, selling, distribution and possession of security equipment;
 - (t) the limited engaging by the Authority of the services of consultants, when it is necessary to make use of such services;
 - (u) generally, any matter which it is necessary or expedient to prescribe for the attainment or better attainment of the objects of this Act or the performance of the functions of the Authority.
- (2) Different regulations may be made in terms of subsection (1) with reference to different categories or classes of security service providers.
- (3) Regulations made in terms of subsection (1) may, in respect of any contravention thereof or failure to comply therewith, prescribe as a penalty a fine or imprisonment for a period not exceeding 24 months.

Provision of information to Authority

36. (1) A member of the Service must, at the request of the Authority, furnish the Authority with information regarding any previous conviction of a person applying in terms of section 21 for registration as a security service provider.

- (2) A person in the employ of the State must, subject to any applicable law, at the request of the Authority furnish the Authority with such information as may be needed by the Authority in order to perform its functions in terms of this Act and the Levies Act.

Preservation of confidentiality

37. No person may disclose to any other person any information obtained by him or her in the performance of any function in terms of this Act and which relates to the personal, financial or business affairs of any person or which may be prejudicial to the performance of the functions of the Authority, except-
- (a) to the extent to which it may be necessary for the proper administration or application of the provisions of this Act or the Levies Act;
 - (b) to the extent that this Act or any other applicable law authorizes or compels such disclosure;
 - (c) with the consent of the Minister; or
 - (d) to the extent that it is necessary for the purposes of pending legal proceedings relating to a matter dealt with in this Act or the Levies Act.

Offences and penalties

38. (1) Any person who-
- (a) falsely represents himself or herself to be an inspector; or
 - (b) interferes with, resists, obstructs, hinders or delays an inspector, other person lawfully accompanying an inspector or a member of the Service in the performance of any function in terms of this Act or the Levies Act;
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.
- (2) Any security service provider or other person referred to in section 33, who-
- (a) refuses or fails to comply with any request of an inspector or member of the Service in terms of section 34;
 - (b) without lawful excuse refuses or fails to answer a question put to him or her by an inspector or a member of the Service; or
 - (c) makes any statement to an inspector or a member of the Service which is materially false or produces any document to an inspector or member of the Service which is false in any material respect, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.
- (3) Any person who-
- (a) contravenes or fails to comply with section 20(1) or section 26(3);
 - (b) contravenes or fails to comply with section 26(6) or 37;

- (c) in any application, inquiry, improper conduct proceedings, appeal or other proceedings in terms of this Act or the Levies Act, wilfully furnishes information or makes a statement which is false in any material respect;
- (d) fails to keep a prescribed record or document or fails to keep a prescribed record or document at premises as required in terms of this Act or the Levies Act;
- (e) advertises security services to be rendered by a person who is not registered in terms of this Act or whose registration is suspended in terms of this Act or the Levies Act;
- (f) holds himself or herself out as a registered security service provider whilst he or she is not registered or such registration is suspended;
- (g) knowingly or without the exercise of reasonable care contracts for the rendering of security services contrary to a provision of this Act or the Levies Act;
- (h) in any manner threatens, or commits an act which is calculated to obstruct or unduly influence a councillor or a staff member of the Authority in the performance of his or her functions in terms of this Act or the Levies Act; or
- (i) commits an act which is calculated to hinder, impede or obstruct any investigation in terms of this Act or the Levies Act;

is guilty of an offence and-

- (i) on a first conviction of a contravention referred to in paragraph (a), is liable to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment;
- (ii) on a second or subsequent conviction of a contravention referred to in paragraph (a), is liable to a fine or to imprisonment for a period not exceeding ten years, or to both a fine and such imprisonment;
- (iii) on a conviction of a contravention referred to in paragraph (b), (c), (d), (e), (f), (g), (h), or (i), is liable to a fine or to imprisonment for a period not exceeding 24 months, or to both a fine and such imprisonment.

- (4) Any person who contravenes or fails to comply with any other provision of this Act or any provision of the Levies Act, is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 24 months, or to both a fine and such imprisonment.

Extra-territorial application of Act and jurisdiction

39. (1) Any act constituting an offence in terms of this Act and which is committed outside the Republic by any security service provider, registered or obliged to be registered in terms of this Act, is deemed to have been committed in the Republic.

- (2) Any offence in terms of this Act is, for the purpose of determining the jurisdiction of a court to try the offence, deemed to have been committed-

- (a) at the place where it was actually committed;
- (b) at the place where the accused is resident; and
- (c) at the place where the accused conducts his or her business.

Limitation of liability

40. The Minister, someone acting under the authority of the Minister, the Authority, a councillor contemplated in section 6, or any person in the employ of the Authority or performing functions in terms of this Act or the Levies Act, is not personally liable in respect of the bona fide exercise of a power or performance of a duty in terms of a provision of this Act or the Levies Act, if such exercise or performance was not grossly negligent.

Delegation of powers by Minister

41. (1) The Minister may upon such conditions as he or she may deem fit, delegate any of the powers conferred upon him or her by this Act, except the power mentioned in sections 1(2), 6, 8, 20, 28, 30 or 35 to the National Commissioner or a member of the Service designated by the National Commissioner.

(2) No delegation of any power prevents the exercise of such power by the Minister.

Act binds State

42. This Act binds the State.

Amendment and repeal of laws

43. The Security Officers Act, 1987 (Act No. 92 of 1987), is hereby repealed, with the exception of its provisions, including the regulations, relating to the deduction and payment of annual amounts, the funding of the Security Officers' Interim Board and the imposition of criminal and other sanctions relating thereto.

Transitional provisions

44. (1) In this section-

- (a) "repealed legislation" means the Security Officers Act, 1987 (Act No. 92 of 1987);
- (b) "Board" means the Security Officers' Interim Board established by section 2 of the repealed legislation.

(2) With effect from the date of commencement of this Act-

- (a) all assets, rights, obligations, duties and liabilities of the Board vest in the Authority and are deemed to have been acquired or incurred by the Authority, as the case may be, in terms of the provisions of this Act;
- (b) anything done or any decision or steps taken by the Board in terms of a provision of the repealed legislation is deemed to have been done or taken by the Authority, as the case may be, in terms of the corresponding provisions of this Act;

- (c) any regulation or a code of conduct made or drawn up in terms of the repealed legislation and in force immediately before the commencement of this Act, remains in force to the extent that it is compatible with this Act, until amended, abolished or replaced in terms of this Act;
 - (d) any reference in any law or document to the Board must be construed as a reference to the Authority;
 - (e) all proceedings which were pending before a court between the Board and any person or appeals pending before the Minister in terms of the repealed legislation, must continue as between the Authority and such person and must be disposed of as if this Act had not been enacted, unless the interests of justice require otherwise.
- (3) As soon as possible after the commencement of this Act the Authority must, on application by any person, against payment of such amount as may be determined by the Authority, effect all such changes or endorsements on any document that was issued by the Board or which reflects a transaction to which the Board was a party immediately prior to such commencement, as are necessary, to give effect to this section.
- (4) Any criminal proceedings, improper conduct proceedings or appeals against decisions of the Board instituted in terms of the repealed legislation and which has not been finalised at the commencement of this Act, must be dealt with and finalised as if such legislation had not been repealed.
- (5) The Registrar of Deeds concerned must make entries or endorsements in or on any relevant register, title deed or other document in the Registrar's office or submitted to the Registrar, which may be necessary in order to give effect to the provisions of subsection (2)(a) and no office fee or other charge is payable in respect of any such entry or endorsement.
- (6) (a) Any category or class of security service providers which was not obliged to be registered as security officers in terms of the repealed legislation immediately before the commencement of this Act, will not be subject to the provisions of this Act or the Levies Act, until such date as the Minister may determine by notice in the Gazette.
- (b) A notice contemplated in paragraph (a) may specify different dates in respect of different categories or classes of security service providers and must be published at least 180 days before any such date specified therein.
- (7) All provisions of the repealed legislation relating to the deduction and payment of annual amounts, the funding of the Board and the imposition of criminal and other sanctions relating thereto, including all relevant regulations, remain in force to provide for the funding of the Authority, until they are repealed by the implementation of the relevant provisions of the Levies Act.
- (8) The provisions of section 20 of the repealed legislation and the regulations made in relation thereto remain in force, with the necessary changes, as if the legislation had not been repealed, until a code of conduct for security service providers and provisions providing for the enforcement thereof come into operation.

Short title and commencement

45. This Act is called the Private Security Industry Regulation Act, 2001, and comes into operation on a date fixed by the President by proclamation in the Gazette.

Schedule

Table of offences

High treason.

Sedition.

Sabotage.

Terrorism.

Public violence.

Arson.

Malicious damage to property.

Intimidation.

Rape.

Murder.

Robbery.

Culpable homicide involving the use of a firearm or any form of intentional violence.

Kidnapping.

Assault with the intention to cause serious bodily harm.

Indecent assault.

Child stealing.

Fraud.

Forgery or uttering of a forged document knowing it to have been forged.

Breaking or entering any premises, whether in terms of common or statutory law, with the intention to commit an offence.

Theft, whether in terms of common law or statutory law.

Receiving stolen property knowing it to have been stolen.

Extortion.

Defeating the ends of justice.

Perjury, whether in terms of common law or statutory law.

Corruption in terms of statutory law.

An offence involving the illicit dealing in dependence-producing substances.

Any offence in terms of statutory law involving an element of dishonesty.

Any offence in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998).

Any offence in terms of the Explosives Act, 1956 (Act No. 26 of 1956).

Any offence in terms of the Regulation of Foreign Military Assistance Act, 1998 (Act No. 15 of 1998).

Any offence in terms of legislation pertaining to the control over the possession and use of firearms and ammunition.

Any offence in terms of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992).

Any offence in terms of the Intelligence Services Act, 1994 (Act No. 38 of 1994).

Any offence in terms of the Protection of Information Act, 1982 (Act No. 84 of 1982).

Crimen injuria.

Any offence in terms of statutory law involving cruelty to an animal.

Any offence in terms of any law relating to illicit dealing in or possession of precious medals or precious stones.

Any offence in terms of statutory law punishable by a period of imprisonment exceeding two years without the option of a fine.

Any conspiracy, incitement or attempt to commit any of the above offences.

**Regulations made under the
Private Security Industry Regulation Act, 2001
(Act No. 56 of 2001)**

MINISTRY FOR SAFETY AND SECURITY

**REGULATIONS MADE UNDER THE PRIVATE SECURITY INDUSTRY REGULATION ACT,
2001 (ACT NO. 56 OF 2001)**

PRIVATE SECURITY INDUSTRY REGULATIONS, 2002

The Minister for Safety and Security has, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), made the Regulations in the Schedule hereto.

SCHEDULE

REGULATIONS REGARDING APPLICATIONS FOR REGISTRATION AS A SECURITY SERVICE PROVIDER, TRAINING REQUIREMENTS FOR REGISTRATION, CLEARANCE CERTIFICATES, INFRASTRUCTURE AND CAPACITY NECESSARY TO RENDER A SECURITY SERVICE, REGISTER OF SECURITY SERVICE PROVIDERS, CHANGE OF NAME AND STATUS OF SECURITY SERVICE PROVIDER, CHANGE WITH REGARD TO INFORMATION SUBMITTED TO THE AUTHORITY, CERTIFICATES OF REGISTRATION, IDENTIFICATION AND APPOINTMENT, KEEPING OF RECORDS AND DOCUMENTS, APPLICATION FOR SUSPENSION AND WITHDRAWAL OF REGISTRATION, SPECIFICATION OF NUMBERS AND OTHER INFORMATION ON DOCUMENTS, UNIFORMS, INSIGNIA, BADGES AND FIREARMS, TRANSITIONAL AND GENERAL PROVISIONS, AUTHORITATIVE TEXT, REPEAL OF REGULATIONS, AND MATTERS INCIDENTAL TO THE ABOVE.

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SCHEDULE: Clearance certificate in terms of section 23(1)(f) of the Private Security Industry Regulation Act

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act will bear the meaning so assigned and, unless the context indicates otherwise -

“Board” means the Security Officers’ Interim Board established by section 2 of the repealed legislation;

“day” includes Saturdays, Sundays and public holidays;

“director” includes any person appointed as an acting director by the Council;

“registration number” means the registration number contemplated in regulation 6(1)(a) of these regulations;

“repealed legislation” means the Security Officers Act, 1987 (Act No. 92 of 1987);

“the Act” means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and includes these regulations as well as the code of conduct for security service providers;

“the Levies Act” means the Private Security Industry Levies Act;

“these regulations” means the regulations contained in this Schedule.

Application for registration as a security service provider

2. (1) An application for registration as a security service provider in terms of section 21 of the Act must be submitted to the director on the applicable form as determined by the Authority for this purpose and which may be obtained from the Authority.
- (2) The duly completed and signed application form submitted to the director in the case of an application for registration by a natural person, not applying for registration as a security business, must be accompanied by the following –
 - (a) payment of the following amounts:
 - (i) the relevant application fee;
 - (ii) the amount payable to the Service in respect of the preliminary screening of the applicant by the Service on the basis of the name and identity number of the applicant, as contemplated in paragraph (f), if the applicant requests this procedure and wishes the Authority to submit the request to the Service; and
 - (iii) (aa) before the implementation of the Levies Act, the prescribed amount for a period of at least 1 month, as contemplated in regulation 9(4), published in *Government Gazette* No. 22770 dated 1 November 2001, prescribed in terms of section 18 of the repealed legislation; or
(bb) after the implementation of the Levies Act, the applicable levies for a period of at least 1 month as imposed in terms of the Levies Act;
 - (b) an authenticated copy of the first page of the official identity document of the applicant or an authenticated copy of any other official document demonstrating the applicant's identity and South African citizenship;
 - (c) proof to the satisfaction of the Authority that an applicant who is not a South African citizen has permanent resident status in South Africa;
 - (d) an authenticated, recent, clear passport size photograph of the applicant;
 - (e) a clear and complete set of fingerprints of the applicant, taken on the form used by the Service for this purpose, by or in the presence of a member of the Service or by or in the presence of an employee of the Authority designated in writing by the director to perform this function;

- (f) a properly completed request for preliminary screening by the Service on the basis of the applicant's name and identity number, if the applicant requests such screening, to confirm his or her criminal record status and the Authority is willing to consider the application in terms of sub-regulation (5);
 - (g) original police or other official clearance certificates on the criminal record status of the applicant, where applicable, as contemplated in sub-regulation (6);
 - (h) an original clearance certificate materially satisfying the requirements in regulation 4 of these regulations if the applicant is a person contemplated in section 23(1)(f) of the Act;
 - (i) an original certificate or other proof, acceptable to the Authority, that the applicant has complied with the applicable training requirements contemplated in regulation 3 of these regulations; and
 - (j) a valid undertaking regarding suretyship or guarantee contemplated in sub-regulation (4)(c) if the applicant is a person contemplated in section 21(1)(a)(iii), (iv), (v), (vi) or (vii) of the Act.
- (3) The duly completed and signed application form submitted to the director in the case of an application for registration by a security business, must be accompanied by the following -
- (a) payment of the following amounts:
 - (i) the relevant application fee; and
 - (ii) (aa) before the implementation of the Levies Act, the prescribed amount for a period of at least 2 months, as contemplated in regulation 9(3) item X, published in *Government Gazette* No. 22770 dated 1 November 2001, prescribed in terms of section 18 of the repealed legislation; or
 - (bb) after the implementation of the Levies Act, the applicable levies for a period of at least 2 months as imposed in terms of the Levies Act;
 - (b) duly completed applications for registration as contemplated in sub-regulation (2), accompanied by all the required supporting documentation, in respect of all persons referred to in section 21(1)(a)(ii), (iii), (iv), (v), (vi) or (vii) of the Act, if they are not already registered as security service providers;
 - (c) an authenticated copy of the CK1 and CK2 documentation if the applicant is a close corporation;
 - (d) an authenticated copy of the CM1, CM2, CM27 and CM29 documentation if the applicant is a company;
 - (e) a list, certified as correct by the duly appointed auditor of the applicant, if the applicant is a company which is not listed publicly, with the names, identity numbers and street addresses of all shareholders of the applicant as at the date when the application for

registration is made, or such certified particulars of all shareholders of the applicant who own or control 5% or more of the total shareholding of the applicant if the applicant is a publicly listed company;

- (f) an authenticated copy of the partnership agreement if the applicant is a partnership;
 - (g) an authenticated copy of the trust deed and the letter of authorisation to the trustees from the Master of the High Court if the applicant is a business trust;
 - (h) an authenticated copy of the documentation establishing the foundation if the applicant is a foundation;
 - (i) an authenticated copy of the documentation or authority in terms of which the applicant is established or functions if it is a body of persons other than that referred to in paragraphs (c), (d), (f), (g) or (h);
 - (j) a tax clearance certificate from the South African Revenue Service, unless the director dispenses with this requirement for a sound reason after obtaining approval from the Council;
 - (k) sufficient information in writing to enable the Authority to ascertain whether the applicant meets the requirements in regard to infrastructure and capacity necessary to render a security service as contemplated in section 23(2)(b) of the Act and regulation 5 of these regulations; and
 - (l) a resolution by the applicant security business, in the form approved by the Authority, to apply for registration as a security service provider.
- (4) The Authority may register an applicant security business as a security service provider if-
- (a) the applicant meets the requirements in respect of infrastructure and capacity contemplated in section 23(2)(b) of the Act and regulation 5 of these regulations, or will meet such requirements when commencing with its business activities in the rendering of a security service;
 - (b) the applicant demonstrates to the satisfaction of the director, through substantiated factual information, that the applicant is likely to commence with its business activities in rendering a security service within a period of 3 months after such registration; and
 - (c) the persons referred to in section 21(1)(a)(iii),(iv), (v), (vi) and (vii) of the Act provide the suretyship or guarantee that the director may deem necessary to ensure compliance with the financial obligations of the applicant towards the Authority.
- (5) The Authority may consider the application for registration as a security service provider by a natural person whose criminal record status has not yet been confirmed through the classification of his or her fingerprints if –

- (a) the applicant's fingerprints have been taken in the manner described in regulation 2(2)(e) of these regulations and have been provided to the Authority; and
 - (b) the Service has performed a preliminary screening on the basis of the applicant's name and identity number and has confirmed the applicant's criminal record status in writing as a result of such screening.
- (6) A person who has immigrated to South Africa during the 10 year period immediately preceding his or her application for registration as a security service provider or who has been resident outside South Africa for an uninterrupted period of at least 1 year during the 10 year period immediately preceding his or her application for registration, must submit an original police or other official clearance certificate on his or her criminal record status from every country outside South Africa where he or she has been resident within the relevant period.
- (7) (a) No amount paid to the Authority by an applicant in terms of sub-regulation (2)(a)(i), (2)(a)(ii), (3)(a)(i) or regulation 5(2) of these regulations, is refundable if the application for registration is withdrawn by the applicant or if the application is not approved by the Authority.
- (b) An amount paid to the Authority as contemplated in sub-regulation (3)(a)(ii) does not affect the liability of the security business in question in respect of payment of the balance of the full applicable amount due in terms of the formula contained in regulation 9(3) as contemplated in sub-regulation (3)(a)(ii), or the balance of the full applicable levies due in terms of the Levies Act, as the case may be.
- (8) A decision of the Authority contemplated in section 23(6) of the Act to register any applicant as a security service provider may only be taken with due regard to the applicable policies and procedures approved for this purpose by the Council and must be contained in a document signed by the director and in which the decision to register the applicant must be recorded as well as the full reasons on which the decision is based.

Training requirements for registration as a security service provider

3. (1) The requirements regarding training, instruction and qualification in terms of this regulation apply in regard to the registration of an applicant as a security service provider as contemplated in section 23(1)(c) of the Act and do not substitute or qualify the provisions of any law or code of conduct regarding the training, instruction or qualification required before a security service provider is allowed to render a particular security service.
- (2) Subject to this regulation, every natural person applying for registration as a security service provider must have successfully completed, at a training establishment accredited in terms of law, at least the training course described and recognized as "Grade E" in terms of the law and policy applied by the Board acting in terms of the provisions of the repealed legislation and the regulations made in terms thereof, or in terms of a prevailing subsequent policy applied by the Authority, as the case may be.

- (3) Subject to this regulation, every person contemplated in section 21(1)(a) (ii), (iii), (iv), (v), (vi) or (vii) of the Act, or a person who intends to render a security service contemplated in paragraph (l) of the definition of security service in section 1(1) of the Act, who applies for registration as a security service provider, must have successfully completed, at a training establishment accredited in terms of law, at least the training course described and recognized as "Grade B" in terms of the law and policy applied by the Board acting in terms of the provisions of the repealed legislation and the regulations made in terms thereof, or in terms of a prevailing subsequent policy applied by the Authority, as the case may be.
- (4) Where an applicant for registration as a security service provider indicates on the application form contemplated in regulation 2(2) of these regulations that after registration the applicant intends to render a security service -
- (a) in respect of which there is at the date of application a specific requirement regarding training, instruction or qualification in terms of the law and policy applied by the Board acting in terms of the provisions of the repealed legislation and the regulations made in terms thereof, or in terms of a prevailing subsequent policy applied by the Authority, as the case may be, the applicant must submit an original certificate or other proof, acceptable to the Authority, indicating that the applicant meets such requirement; or
- (b) in respect of which there is not at the date of application a specific requirement regarding training, instruction or qualification as contemplated in paragraph (a) or any other legal provision, and in respect of which compliance with the training requirements contemplated in sub-regulations (2) or (3) would, in the opinion of the Authority, not be appropriate or necessary for registration, the applicant may be registered as a security service provider if the applicant demonstrates to the satisfaction of the Authority that the applicant will be able to render such a security service on the basis of any relevant training, instruction, qualification or experience.
- (5) The Authority may, for the purposes of section 23(1)(c) of the Act, upon good cause shown by an applicant to the satisfaction of the Authority and after payment of the amount as may be determined by the Authority for such purpose, recognize any relevant and adequate training, instruction, qualification or experience of an applicant as equal to or higher than that contemplated in this regulation and issue a document to the applicant to this effect for the purposes of these regulations.
- (6) The Authority performs its functions in terms of this regulation after such consultation with the South African Qualifications Authority, the Policing, Security, Legal and Correctional Services Sector Education and Training Authority, or with any other statutory body, as the Authority may deem necessary.

Clearance certificate: ex-member of any official military, security, police or intelligence force or service

4. (1) In this regulation, unless the context indicates otherwise -

“former employer” means any official military, security, police or intelligence force or service, whether in South Africa or elsewhere, or its successor in law, of which an applicant contemplated in section 23(1)(f) of the Act is a former member.

- (2) The clearance certificate contemplated in section 23(1)(f) of the Act must be completed in the form contained in the Schedule to these regulations.
- (3) An applicant contemplated in section 23(1)(f) of the Act must, subject to this regulation, submit such clearance certificate from all his or her former employers.
- (4) Where an applicant submits a certificate which does not in the opinion of the director materially satisfy the requirements of sub-regulation (2), or if the director is of the opinion that further enquiry or investigation is necessary, the director may postpone consideration of the application for registration pending rectification of the certificate to the satisfaction of the director, or finalisation of such enquiry or investigation as may be necessary.
- (5) Where an applicant's former employer no longer exists or where it is demonstrated by the applicant to the satisfaction of the Authority that it is not possible or reasonably practical to submit a clearance certificate containing all the required particulars, the Authority may –
 - (a) hold over the application for registration pending further investigation and consideration of the background of the applicant; or
 - (b) if it is reasonable to do so in the circumstances, and after complying with the provisions of regulation 2(8) of these regulations and obtaining the consent of the Council, register the applicant as a security service provider if it considers the applicant a fit and proper person to render a security service.
- (6) The particulars in a clearance certificate must be taken into account to determine whether the applicant is a fit and proper person as contemplated in section 23(1) of the Act.
- (7) A former employer must, at the request of an applicant contemplated in section 23(1)(f) of the Act, furnish the applicant with a properly completed clearance certificate within a period of 30 days after receipt of the request or within such other period as may be reasonable in the circumstances.

Infrastructure and capacity necessary to render a security service

5. (1) Every security business applying for registration as a security service provider must, for the purposes of compliance with the provisions of section 23(2)(b) of the Act –
 - (a) furnish factually substantiated information in writing to the Authority on the nature and scope, including the geographical area, of the applicant's intended and likely activities in rendering a security service for at least a period of 1 year after commencing with its business activities; and

- (b) demonstrate, through a declaration with such substantiation as may be necessary, to the satisfaction of the Authority that the applicant will meet the following minimum requirements at the commencement of its business activities in the rendering of a security service, and is likely to continue to meet these requirements for at least 1 year after such commencement -
- (i) the applicant has at its disposal an administrative office, consisting of at least one room dedicated for this purpose, which must be an immovable structure, situated at a place that is reasonably accessible to the inspectors of the Authority, the clients of the security business and the security officers that are used by it to render a security service, and at which reasonable office hours are maintained;
 - (ii) the applicant's administrative office contains all the equipment which is reasonably necessary for the effective management and administration of the affairs of the security business, on the basis of the information furnished in terms of the provisions of sub-regulation (1)(a), in accordance with the provisions of the Act, and, without limiting the generality of the aforesaid requirement, is serviced by landline telephone communication which includes a reliable facility to receive and transmit facsimiles, and the office contains a hard copy or electronic filing system for the orderly keeping of all records and documents contemplated in regulation 10 of these regulations;
 - (iii) the applicant's administrative office and internal systems meet any reasonable requirement that the Authority determines in terms of the Act;
 - (iv) the applicant has at its disposal as many administrative offices satisfying the requirements of this regulation, as well as such other premises and physical facilities as may be reasonably necessary, in view of the nature, extent and geographical location of the applicant's activities;
 - (v) the affairs of the applicant are managed and controlled by appropriately experienced, trained or skilled persons;
 - (vi) the applicant has at its disposal a sufficient number of registered and appropriately trained and skilled security officers for the rendering of a security service for which it has contracted or is likely to contract;
 - (vii) the security officers used by the applicant in the rendering of a security service are properly controlled and supervised;
 - (viii) the applicant has at its disposal a sufficient number of adequately skilled administrative staff members for the purpose of the administration of the affairs of the applicant in accordance with the provisions of the Act and any other applicable law;

- (ix) the applicant has at its disposal the financial means to ensure payment of the lawful wages to all the security officers and administrative staff used by it in connection with the rendering of a security service, as well as to ensure compliance with all its other statutory financial obligations;
 - (x) the applicant has all the necessary equipment, including vehicles and properly trained working animals, if applicable in the circumstances, as well as the uniforms, clothing and equipment that must be issued to its security officers in view of the nature of their functions, at its disposal to enable it to render a proper security service for which it has contracted or is likely to contract; and
 - (xi) the applicant is in lawful possession of the firearms and other weapons that are necessary to render the security service in respect of which it has contracted.
- (2) If the Authority deems it necessary to conduct an inspection or any further inspection to establish whether an applicant meets any of the requirements contemplated in sub-regulation (1), the applicant must pay the amount determined by the Authority for this purpose before an inspection will be undertaken.
- (3) If at any time after its registration as a security service provider, a security business fails or refuses at the written request of the director to demonstrate to the satisfaction of the director –
- (a) that it still has at its disposal the infrastructure and capacity on the basis of which it was so registered; or
 - (b) that its current infrastructure and capacity as measured in terms of the criteria contemplated in sub-regulation (1)(b), are reasonably sufficient for the purposes of the current nature and scope of its activities as a security service provider,
- the Authority may withdraw its registration thereof as a security service provider if the defects are not rectified within such a reasonable period as the director may determine for this purpose in a notice served on the security business.

Register of security service providers and related issues

6. (1) The register of security service providers, which is kept by the Authority in terms of section 24 of the Act, contains the following particulars:
- (a) the registration number on the registration certificate issued by the Authority in terms of section 25 of the Act or the number contemplated in regulation 14(3)(a)(i) of these regulations;
 - (b) the date on the registration certificate referred to in paragraph (a);

- (c) the residential and business or employment address (street address and postal address) and telephone contact particulars of the security service provider;
 - (d) the full first names, surname, identity number, date of birth and citizenship of the security service provider if such provider is a natural person;
 - (e) particulars of the security service or services rendered by the security service provider as well as the category of security service providers into which the provider is classified by the Authority;
 - (f) the name of the security business, every name under which the security business is trading, the branches of the security business, the name of every person referred to in section 21(1)(a) of the Act, as well as the particulars contemplated in regulation 2(3)(e) of these regulations;
 - (g) the name of the employer of a security service provider who is a security officer;
 - (h) particulars of every conviction of improper conduct in terms of the Act and the repealed legislation, every conviction of an offence specified in the schedule to the Act and in the schedule to the repealed legislation, every conviction of an offence in terms of section 38 of the Act and every conviction of an offence in terms of section 35 of the repealed legislation;
 - (i) particulars of firearm licences and permits issued to a security service provider;
 - (j) the particulars contained in the register contemplated in section 13 of the repealed legislation; and
 - (k) any other particulars deemed necessary by the Authority to be included in the register.
- (2) An address of a security service provider contained in the register contemplated in sub-regulation (1) may be used by the Authority for the purposes of serving any document or notice in terms of the Act.

Change of name and status of security service provider

7. (1) An application to change the name of a registered security business as contained in the register contemplated in regulation 6 of these regulations, including the name under which such business is trading, must be submitted to the director on the form approved for this purpose by the Authority and must be accompanied by the documentation required in terms of the form as well as the amount determined by the Authority for this purpose.
- (2) Notification of a change in the name of a natural person registered as a security service provider must be submitted to the director, within a period of 7 days of the change occurring, on the form approved for this purpose by the Authority, accompanied by the documentation as required in terms of the form as well as the amount determined by the Authority for this purpose.

- (3) A security business which changes its name and trades under or uses such a changed name or trades under any name not contained in the register contemplated in regulation 6 of these regulations, without having received the approval of the Authority as contemplated in sub-regulation (1), or a security service provider who, without sufficient cause, fails to submit the notification form as required in terms of sub-regulation (2), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 6 months.
- (4) (a) An application to change the legal status or the nature of a security business registered as a security service provider must be submitted to the director on the form approved for this purpose by the Authority and must be accompanied by the documentation required in terms of the said form, as well as the amount determined by the Authority for this purpose.
- (b) An application contemplated in paragraph (a) is considered in terms of the policy and procedure approved by the Authority for this purpose and may be granted on such conditions as determined by the Authority.
- (5) (a) A registered security service provider who wishes to occupy a position contemplated in section 21(1)(a)(ii), (iii), (iv), (v), (vi) or (vii) of the Act in regard to a particular security business must submit an application to the director on the form approved for this purpose by the Authority and the application must be accompanied by the documentation required in terms of the form, as well as the amount determined by the Authority for this purpose.
- (b) A registered security service provider who assumes a position contemplated in section 21(1)(a)(ii), (iii), (iv), (v), (vi) or (vii) of the Act in regard to a particular security business without obtaining the approval of the Authority as contemplated in paragraph (a), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months.

Change with regard to information submitted to the Authority

- 8. (1) A security service provider –
 - (a) must inform the Authority within 10 days of any change in regard to any information submitted in writing to the Authority in terms of a provision of or an application in terms of the Act, or information previously submitted to the Board in writing in terms of a provision of or an application in terms of the repealed legislation; and
 - (b) must, in the case of a security business, annually during November submit a return to the Authority with the information required on the form approved by the Authority for this purpose.
- (2) The obligations referred to in sub-regulation (1) must be discharged through a notice from the security service provider which is sent by registered post, facsimile transmission, electronic mail, or through a notice which is hand-delivered to an employee of the Authority against a receipt issued by the

Authority, or by using some other method approved by the Authority in writing for this purpose.

- (3) Every person referred to in section 21 (1) (a) (ii), (iii), (iv), (v), (vi) or (vii) of the Act must take all reasonably practicable steps within his or her powers, capacity or functions to ensure that the security business in question complies with all the obligations contained in this regulation.
- (4) Any security service provider who contravenes or fails to comply with sub-regulation (1), or any person contemplated in sub-regulation (3) who contravenes or fails to comply with sub-regulation (3), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 6 months.

Certificates of registration, identification and appointment

9. (1) The certificate of registration contemplated in section 25 of the Act contains the name and registration number of the security service provider, such further information as the Authority may determine and the seal of the office of the director.
- (2) The certificate of identification contemplated in section 25 of the Act is in the form of a credit card, includes a photograph of the security service provider, contains the name and registration number of the security service provider and such further information as the Authority may determine.
- (3) The certificate of appointment of an inspector of the Authority contemplated in section 31(3) of the Act, must comply with every applicable requirement prescribed in terms of section 334(3)(b) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), must contain the statement that the inspector is a peace officer for the national territory of the Republic for the purpose of exercising the powers contemplated in sections 40, 41, 44, 45, 46, 47, 48, 49 and 56 of the Criminal Procedure Act, and must contain the name and address of the Authority, a photograph of the inspector, the name of the inspector and such further particulars as determined by the Authority.
- (4) The Authority may, on application of a security service provider and after payment of the amount determined by the Authority for this purpose, issue a new certificate of registration or a new certificate of identification to the security service provider if the Authority is satisfied that the original certificate has been materially damaged, has been destroyed, has been lost, when the circumstances contemplated in regulation 7 of these regulations are present, when registration is renewed as contemplated in section 22 of the Act, or when there is some other sound reason for issuing a new certificate.
- (5) A security service provider must always carry his or her certificate of identification when he or she is rendering a security service or wearing the uniform of a security business in public and must immediately produce the certificate when requested to do so by a member of the Service, an inspector of the Authority, a client to whom the security service provider is rendering a security service, a person authorized by such client in writing, or by any other person with a legitimate interest to ascertain the registration status and identity of the security service provider.

- (6) A security service provider who –
- (a) without sufficient cause fails or refuses to comply with a request contemplated in sub-regulation (5);
 - (b) changes, falsifies information on, defaces, destroys or fails to take reasonable steps to safeguard his or her certificate of registration or certificate of identification; or
 - (c) without a legal ground justifying such conduct, withholds, retains or is in possession of the certificate of registration or certificate of identification of another security service provider,
- is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 6 months.

Keeping of records and documents

10. (1) Every security business must, subject to this regulation, keep all the records and documents concerning the management, administration and other matters relating to the rendering of security service by it.
- (2) Every security business must, subject to this regulation, keep the originals of all records and documents contemplated in this regulation in a secure and orderly manner, available for inspection by the Authority –
- (a) at the administrative office contemplated in regulation 5(1) of these regulations, or if it has more than one administrative office, at the relevant office servicing the region or the activities to which the record or documentation relates, or at the office or place approved for this purpose by the director in writing on application by the security business concerned; and
 - (b) for a period of at least 4 years from the date of their coming into existence, unless another legal provision provides for a longer period or the director in writing directs that they be kept for such longer period as the director may determine.
- (3) The records and documents to which this regulation relates must be updated, to the extent that their nature requires or permits it, by the security business in question when any relevant change occurs, as soon as it is reasonably practicable to do so, but in any event not later than 7 days after the change in question.
- (4) (a) Unless otherwise directed in terms of sub-regulation (5), or unless the nature of the record or document or some other applicable legal provision dictates otherwise, all records and documents falling under this regulation may be kept and maintained in an electronic format through the use of an appropriate computer program.
- (b) A security business which keeps any records or documents in electronic format must ensure that an accurate and correctly dated and marked electronic back-up copy of all such records and documents is separately created and stored at least every day on which it renders a security service and on which a change to the

information on the record or document has occurred, or a new record, document or information is added.

- (c) The electronic back-up copy contemplated in paragraph (b) must be kept safely and available for inspection by the Authority.
- (5) The director may at any time issue a directive to a security business, or to all or any category or class of security businesses, regarding any of the following –
- (a) the office or other premises where any or all records or documents contemplated in this regulation must be kept;
 - (b) the period for which any such record or document must be kept, which period may be longer than that provided for in sub-regulation (2)(b); or
 - (c) the keeping of any particular records or documents or any other aspect regarding the keeping of records or documents.
- (6) Every person referred to in section 21 (1)(a)(ii), (iii), (iv), (v), (vi) or (vii) of the Act must take all reasonably practicable steps within his or her powers, capacity or functions to ensure that the security business in question complies with all the obligations in terms of this regulation.
- (7) The records and documents that must be kept as contemplated in this regulation, include -
- (a) a list or register with the full first names and surname, identity number, registration number and residential address of every security officer and other person employed by the security business, as well as a list with the full first names, surname, identity number, registration number and residential address of every person who is an official of the security business but who is not in its employ;
 - (b) a list or register with the full first names and surname, identity number, registration number and residential address of every security officer made available or whose services are made available by the security business to another security business or to any person;
 - (c) a register containing full information on the wages and remuneration paid to all security officers and other employees of the security business, as well as all deductions from such wages, materially in the form contained in BCEA 2 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
 - (d) true copies of all payslips in respect of security officers and other employees of the security business, materially in the form contained in BCEA 4 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
 - (e) an attendance register in respect of all security officers and other employees of the security business, materially in the form contained in BCEA 3 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);

- (f) a posting sheet containing the following particulars in respect of every day or part of a day during which the security business renders a security service:
- (i) the full first names and surname, and the level of accredited security training of every security officer utilised in connection with the rendering of a security service in respect of that day or part thereof;
 - (ii) the registration number of every such security officer;
 - (iii) the name of every client to whom a security service was rendered and the address and place or places where such service was rendered;
 - (iv) the nature of the security service rendered;
 - (v) the duration of the security service in hours;
 - (vi) whether a security officer was provided with a firearm or other weapon, and if so, the type of firearm or weapon, its proper identification number if any, as well as information on the legal authority in terms of which the firearm was provided and possessed; and
 - (vii) particulars of ammunition provided to a security officer;
- (g) personnel files on each security officer, employee or official contemplated in paragraphs (a) and (b), containing at least –
- (i) every written contract concluded with such person, as well as a description of the duties or functions of such person;
 - (ii) written particulars of employment as contemplated in section 13 of Sectoral Determination 6: Private Security Sector, South Africa, as published in Government Notice No. R 1250, *Government Gazette* No. 22873 dated 30 November 2001;
 - (iii) a record of all disciplinary steps, including suspension from duty, taken against such person by the security business;
 - (iv) a true copy of official documentation indicating the level of accredited security training and other relevant training of such person; and
 - (v) a record with information on the transfer from one branch or division to another, the promotion and termination of service of such person;
- (h) written contracts entered into with clients of the security business for the purposes of rendering a security service, as well as a list with the names, contact addresses and telephone numbers of all the clients with whom the security business has concluded contracts, whether orally or in writing, for the rendering of a security service, a description

of the nature of the service contracted for, the contractual tariff in respect of the rendering of the service, as well as the place or places where the service is to be rendered;

- (i) a register concerning security officers contemplated in paragraph (b), indicating the name and street address of every security business or other person to whom such security officers or their services have been made available, the dates on which this occurred, the financial consideration payable in this regard and the persons responsible to pay any remuneration, reward or fee to the security officers in this regard;
 - (j) legal authorisation in the form prescribed by law in respect of the possession and use of firearms and other weapons by the security business and its security officers;
 - (k) documentation indicating full particulars of all deductions and payments which are made to the Authority in terms of the provisions contemplated in section 44(7) of the Act, or in terms of the Levies Act, as the case may be; and
 - (l) all other records or documents which the security business must keep in terms of the Act or any other law applicable to a security business.
- (8) Any security business which contravenes or fails to comply with sub-regulation (2)(b), (3), (4)(b) or (4)(c) or fails or refuses to comply with a directive contemplated in sub-regulation (5), or any person contemplated in sub-regulation (6) who contravenes or fails to comply with sub-regulation (6), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 24 months.

Application for suspension or withdrawal of registration

11. (1) Any security service provider may, by submission of the duly completed and signed form approved for this purpose by the Authority and against payment of such an amount as has been determined by the Authority for this purpose, apply to the Authority for suspension or withdrawal of his or her registration as a security service provider.
- (2) If the Authority is satisfied that there is a sound reason for such a step and that there would not be unreasonable prejudice to any person which can be avoided by the refusal of the application for suspension or withdrawal of registration, the Authority may direct that the registration of the security service provider in question be suspended or withdrawn from any date and on such conditions as the Authority may determine, including the payment of any outstanding amounts owed to the Authority, or the conclusion of any enquiry or other legal process.
- (3) In the case of the suspension of the registration of a security service provider in terms of this regulation, no annual amounts in terms of the provisions contemplated in section 44(7) of the Act, or in terms of the Levies Act, are payable to the Authority by the security service provider in respect of the period of suspension.

- (4) A security service provider whose registration has been suspended as contemplated in terms of this regulation may, by submission of the duly completed and signed form approved for this purpose by the Authority and against payment of such an amount as has been determined by the Authority for this purpose, apply to the Authority to uplift the suspension, and the Authority may grant the application on such conditions as the Authority may determine.

Specifying of registration numbers and other information on documents

12. (1) No security business registered as a security service provider may, after the expiration of a period of 60 days after the promulgation of these regulations, send, deliver, issue, publish or cause to be sent, delivered, issued or published, any document or advertisement, including a document in electronic format, relating to or connected with its position or activities as a security service provider, unless the following has been effected in a clearly legible manner on the front or the first page thereof, as the case may be –
- (a) the name under which the security business is registered as a security service provider by the Authority, as well as the name under which it trades, as reflected in the register contemplated in regulation 6 of these regulations;
 - (b) the expression "*Registered as a security service provider by the Private Security Industry Regulatory Authority, registration number...*", where the registration number is the number contemplated in regulation 6(1)(a) of these regulations; and
 - (c) the street address and postal address of an administrative office of the security business, a telephone contact and facsimile number of the security business at that office, as well as the name and telephone contact number of an official of the security business performing executive or management functions in respect of the security business.
- (2) Every person referred to in section 21(1)(a)(ii), (iii), (iv), (v), (vi) or (vii) of the Act must take all reasonably practicable steps within his or her powers, capacity or functions to ensure that the security business complies with all the obligations in terms of sub-regulation (1).
- (3) Any security business which contravenes or fails to comply with sub-regulation (1), or any person contemplated in sub-regulation (2) who contravenes or fails to comply with sub-regulation (2), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 6 months.

Uniforms, insignia, badges and firearms

13. (1) Every security business must, subject to this regulation, provide every security officer in its employ with sufficient, distinctive articles of clothing constituting a standard uniform of that security business if the security officer is required to render a security service as contemplated in paragraphs (a), (c) or (d) of the definition of security service contained in section 1(1) of the Act, unless the security officer only renders a service consisting of the protection or safeguarding of a specific natural person.

- (2) Every security officer contemplated in sub-regulation (1) must wear the uniform provided to him or her when rendering such a security service.
- (3) The uniform contemplated in sub-regulation (1) –
 - (a) must be suitable for use by the security officer in view of the nature of the security service rendered, the circumstances under which the security service is rendered and any other relevant circumstance; and
 - (b) must have at least 2 badges, prominently attached to the uniform, with the name of the security business employing the security officer clearly legible on them, as well as a badge, attached to the front top part of the uniform, with the name and registration number of the security officer clearly legible on it.
- (4) The director may, if there is a sound reason for such a step, direct a security business in writing to change any aspect regarding the uniform issued to its security officers to the extent and within such a reasonable time as may be indicated by the director.
- (5) A security business which renders a security service requiring the possession or use of a firearm, must lawfully provide a suitable firearm for that purpose and may not require or permit a security officer employed by the security business to obtain or provide a firearm for that purpose.
- (6) A security officer may, for the purpose of rendering a security service in the course of his or her employment, only possess a firearm lawfully provided by his or her employer.
- (7) Any security service provider who –
 - (a) contravenes or fails to comply with sub-regulation (1), (2) or (3), or fails or refuses to comply with a directive contemplated in sub-regulation (4);
 - (b) without legal justification wears a uniform, badge or insignia identical to, or so closely resembling a uniform, badge or insignia of the South African Police Service, the South African National Defence Force, the Department of Correctional Services or of any other law enforcement agency or service established in terms of law, as to be calculated to deceive;
 - (c) without legal justification provides another person with a uniform, badge or insignia contemplated in paragraph (b);
 - (d) requires or permits a security officer employed or made available to that security service provider, to obtain or provide a firearm for the purpose of rendering a security service in the course of his or her employment;
 - (e) requires a security officer employed or made available by that security service provider, or an applicant for a post as a security officer, to have a firearm licence; or

(f) is a security officer and who, for the purpose of rendering a security service in the course of his or her employment, is in possession of a firearm not lawfully provided by his or her employer,

is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 24 months.

(8) This regulation comes into operation 120 days after promulgation of these regulations.

Transitional and general provisions

14. (1) In this regulation, unless the context indicates otherwise –

“existing security officer” means a person lawfully registered by the Board as a security officer in terms of the repealed legislation and the registration of whom or which was valid on the day immediately preceding the day when the Act came into operation.

(2) Every existing security officer is, subject to this regulation and the provisions of any other applicable law, deemed to have been registered as a security service provider in terms of section 21 of the Act and is subject to all the provisions of the Act.

(3) (a) An existing security officer who is deemed to have been registered as a security service provider-

(i) must, for the purposes of the Act, use the registration number allotted to it by the Board until such time as the Authority changes this number;

(ii) must, in the case of a security business, subject to the provisions of any other law, keep all records and documentation of whatever nature relating to the rendering of a security service by such security business, which are not older than 4 years, securely and orderly as contemplated in regulation 10(1) and (2) of these regulations;

(iii) may, in the case of a security business, until expiration of the period before the requirements regarding infrastructure and capacity to render a security service come into operation in respect of the existing security officer as contemplated in sub-regulation (5), keep all records and documents as contemplated in regulation 10 of these regulations at any office or offices where they might have been kept if regulation 10(2)(a) of these regulations had not been made; and

(iv) must, in the case of a security business which is a company, furnish the Authority within the period determined by the director for this purpose with a list contemplated in regulation 2(3)(e) of these regulations.

(b) Any security business, or official or employee of the security business, who contravenes or fails to comply with paragraph (a)(ii) or (iv) is

guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months.

- (4) An existing security officer who is a person contemplated in section 23(5) of the Act will not be deemed to have been registered as a security service provider in terms of the Act.
- (5) Every existing security officer deemed to have been registered as a security service provider and falling within the definition of a security business in terms of the Act, must, within a period of 120 days from the date of promulgation of these regulations, or within such longer period as the director may allow on the basis of a substantiated written application by such security business within a period of 60 days from the date of promulgation of these regulations, comply with the requirements regarding infrastructure and capacity necessary to render a security service as contemplated in regulation 5 of these regulations.
- (6)
 - (a) Every existing security officer who occupies a position referred to in section 21(1)(a) (ii), (iii), (iv), (v), (vi) or (vii) of the Act must, subject to regulation 3 of these regulations, within a period of 120 days from the date of promulgation of these regulations, or within such longer period as the director may allow on the basis of a substantiated written application by an existing security officer within a period of 60 days from the date of promulgation of these regulations, comply with the training requirement contemplated in regulation 3(3) of these regulations, or vacate the aforesaid position.
 - (b) A person who contravenes or fails to comply with the provisions of paragraph (a), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 6 months.
- (7)
 - (a) Every applicant for registration as a security officer in terms of the repealed legislation whose application is lodged, or is pending, on the day immediately before the day when the Act comes into operation, must, subject to this sub-regulation, submit a duly completed and applicable application form as contemplated in regulation 2 of these regulations to the Authority to enable the Authority to consider the application in terms of the Act.
 - (b) An applicant contemplated in paragraph (a) must submit the duly completed application form to the Authority within 60 days after the date of promulgation of these regulations, or within such longer period as the Authority may allow for a sound reason.
 - (c) The application for registration by an applicant who does not submit the application form as provided for in this sub-regulation within the period allowed for this or who withdraws the application, lapses, and the Authority will not have to refund any amount paid by the applicant in respect of the application or to take such amount into account when the applicant lodges a new application.
- (8) An applicant for registration pursuant to a notice issued in terms of section 44(6) of the Act who wishes to render a relevant security service from the date determined in the notice, must submit the application to the Authority at least 2 months before the relevant date determined in the notice.

- (9) (a) A person using his or her own employees to protect or safeguard merely his or her own property or interests, or persons or property on his or her premises or under his or her control, must, after such employees have become subject to the provisions of the Act in terms of a notice contemplated in section 44(6)(a) of the Act -
- (i) only use employees registered as security service providers in terms of section 21 of the Act to perform these functions;
 - (ii) before implementation of the Levies Act, comply, with the necessary changes, with the provisions regarding the deduction and paying over of the prescribed amounts in respect of registered security service providers in its employ as provided for in regulation 9(4), published in *Government Gazette* No. 22770 dated 1 November 2001, prescribed in terms of section 18 of the repealed legislation, and, after implementation of the Levies Act, comply, with the necessary changes, with the provisions regarding the deduction and paying over of levies in respect of registered security service providers in its employ, as determined in terms of the Levies Act;
 - (iii) comply, with the necessary changes, with the provisions contained in regulation 10(2), (3), (4), (5), (7)(a), (7)(b), (7)(c), (7)(d), (7)(e), (7)(g), (7)(i), (7)(j) and (7)(k) of these regulations; and
 - (iv) comply, with the necessary changes, with the provisions contained in regulation 8 and regulation 13 of these regulations.
- (b) A person contemplated in paragraph (a) who contravenes or fails to comply with a provision applicable to him or her as contemplated in paragraph (a), is guilty of an offence and on conviction liable to the penalty which may be imposed on a security service provider convicted of such an offence in terms of the applicable regulations contemplated in paragraph (a).

Authoritative text

15. The provisions of the English text of these regulations will prevail in the case of a difference between the English text and the text in any other official language.

Repeal of regulations

16. The following regulations are hereby repealed as specified below:

Regulations	Extent of repeal
The regulations contained in Government Notice No. R 797 published in <i>Government Gazette</i> No. 12413 dated 2 April 1990, as amended.	The whole with the exception of regulations 1, 7, 9(1), 9(3) and 9(4).
The regulations contained in Board Notice 46 of 1993 published in <i>Government Gazette</i> No 14767 dated 7 May 1993.	The whole.
The regulations contained in Board Notice 87 of 1994, published in <i>Government Gazette</i> No. 15951 dated 9 September 1994.	The whole.

Short title and commencement

17. These regulations are called the Private Security Industry Regulations, 2002, and come into operation on the date when the Act comes into operation.

SCHEDULE

**CLEARANCE CERTIFICATE IN TERMS OF SECTION 23(1)(f) OF THE PRIVATE SECURITY INDUSTRY
REGULATION ACT, 2001**

1. Particulars of applicant's former employer

Name of force or service

Street address of head office (including city, province and country)

Telephone number _____ **Facsimile number** _____

E-mail address _____

Postal address

Name, address and telephone number of contact person

2. Particulars of former employee

Full first names and surname of employee

Identity number _____

Passport number _____

Last known address

Former employee's force, service or personnel number

Date of commencement of employment _____

Date of termination of employment _____

Rank at termination of service _____

Capacities in which employed

Reason for termination of employment

Reasonable particulars of any misconduct by former employee (findings of guilty on charges of misconduct, penalties imposed, dates and other relevant particulars)

If there were disciplinary proceedings pending against the former employee at the date of termination of service, factual information on the merits of the charges and whether any termination of service occurred in order to avoid disciplinary proceedings, is required

3. Declaration

I, the undersigned, declare that the information provided on this form is true and correct and that I have the necessary authority to provide the information.

Signature _____ Date _____

Name _____

Position in force or service _____

Telephone number _____

4. Consent by former employee to former employer to furnish personal information relating to employment record and matters related thereto.

I, the undersigned, hereby give consent to my former employer contemplated in this form to provide the information relating to my employment record and related issues provided for in this form, to the Private Security Industry Regulatory Authority.

Signature of former employee _____

Name _____

Date _____

Regulations relating to Appeals and Applications For Exemptions, 2003

No. 1253
September 2003

5

REGULATIONS MADE UNDER THE PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO. 56 OF 2001)

REGULATIONS RELATING TO APPEALS AND APPLICATIONS FOR EXEMPTIONS, 2003

I, Charles Nqakula, Minister for Safety and Security, have, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), made the Regulations in the Schedule.

SIGNED at Pretoria on this 11th day of April 2003.

C NQAKULA
Minister for Safety and Security

SCHEDULE

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ANNEXURE: FORM FOR LODGING AN APPEAL

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act will bear the meaning so assigned and, unless the context indicates otherwise-

“Act” means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and all regulations made in terms of the Act.

“Annexure” means the Annexure to these regulations;

“appeal” means an appeal to an appeal committee against a decision referred to in section 30(1) of the Act, or any other decision of the Authority in respect of which an aggrieved person is entitled to lodge an appeal in terms of the Act;

“appeal committee” means an appeal committee appointed under section 30(2) of the Act;

“appeal file” means the appeal file referred to in regulation 4(1);

“appellant” means any person who-

- (a) is lodging an appeal; or
- (b) is entitled to appeal and requests the Authority for the reproduction of the record of an improper conduct enquiry or who requests the assistance referred to in regulation 2(5);

“appellant documentation” means the documentation referred to in regulation 3(2);

“applicant” means a person lodging an appeal for exemption or the renewal of an exemption;

“applicant documentation” means the documentation referred to in regulation 6(1);

“application for exemption” means an application by any person in terms of section 1(2) or 20(5) of the Act to the Minister for an exemption from the operation of any or all of the provisions of the Act;

“cost of reproduction”, in relation to the reproduction of the record of an improper conduct enquiry, means R14.50 (exclusive of VAT) per A4 page for the year 2003, whereafter the amount will increase at a rate of 5% per year;

“director” includes a staff member of the Authority appointed as the acting director by the Council or to whom any of the powers or duties of the director have been delegated or assigned, as the case may be;

“exemption” means an exemption as contemplated in section 1(2) or 20(5) of the Act;

“improper conduct enquiry” means an enquiry into alleged improper conduct as contemplated in the Act;

“lodging an appeal” means the submission to the Authority of the appellant documentation in terms of these regulations;

“photocopying cost” means the amount of R0.50 (exclusive of VAT) per A4 page copied;

“postal address”, in relation to the head office of the Authority, means Private Bag X817, Pretoria, 0001;

“presiding officer” means the presiding officer of an appeal committee referred to in section 30(2)(a) of the Act;

“register of exemptions” means the register referred to in regulation 9(3)(b)(vii);

“renewal of an exemption” means the renewal of an exemption referred to in regulation 8(2)(a);

“repealed regulations” means the regulations repealed in terms of regulation 11;

“street address”, in relation to the head office of the Authority, means 481 Belvedere Street, Arcadia, Pretoria;

“these regulations” means the regulations contained in this Schedule and includes the Annexure.

PART I APPEALS

Reproduction of records, form used for an appeal and assistance to appellants

2. (1) An appellant who intends to lodge an appeal against a finding or punishment contemplated in section 30(1)(c) of the Act must, before lodging the appeal, request the Authority, against payment of the amount contemplated in sub-regulation (2), to reproduce the record of the relevant improper conduct enquiry and furnish a copy thereof to the appellant.
- (2) The amount payable by an appellant for the record of an improper conduct enquiry is calculated on the basis of an estimation by the Authority of the number of pages of the record in question, multiplied by the cost of reproduction.
- (3) The Authority must as soon as possible after an appellant has paid the amount contemplated in sub-regulation (2), cause a copy of the record in question to

be reproduced and furnished to the appellant, subject, if applicable, to any further payment by the appellant in terms of sub-regulation (4).

- (4) If it appears after the reproduction of the record in question that there is a difference between the amount paid by the appellant as calculated in terms of sub-regulation (2) and the amount that the appellant should have paid on the basis of the actual number of pages of the record-
 - (a) the Authority must on demand refund the appellant any amount overpaid by the appellant; or
 - (b) the appellant must on demand pay to the Authority any amount still due to the Authority.
- (5) The Authority must at the request of an appellant provide the appellant with-
 - (a) a copy of the form contained in the Annexure; and
 - (b) the information, as well as copies of relevant documentation, against payment of the photocopying cost in respect thereof, to which the appellant is entitled for the purposes of completing the form in question, and which the Authority is able to provide.

Lodging of appeal

3. (1) An appellant lodges an appeal at the street address of the head office of the Authority, or by registered post remitted to the postal address of the head office of the Authority, within the period of 60 days referred to in section 30(1) of the Act.
- (2) An appeal-
 - (a) is lodged in a written form corresponding materially to the form contained in the Annexure, which must be completed in full and be accompanied by all applicable documentation referred to in the form; and
 - (b) must set out fully and clearly the grounds of appeal as well as any arguments and representations which the appellant wishes to advance in support of the appeal.
- (3) The Authority must provide an appellant-
 - (a) with a written acknowledgement of receipt of the appellant documentation; and
 - (b) with a reasonable opportunity to rectify the appellant documentation or add relevant documentation before the submission of the appeal file to the appeal committee.

Prosecution of appeal

4. (1) The Authority must, within 30 days after the appellant has lodged an appeal referred to in section 30(1)(c) of the Act, and within 14 days after an appellant has lodged any other appeal, submit the appeal file to the presiding officer, containing-

- (a) the appellant documentation;
 - (b) the documentation contemplated in regulation 3(3)(b) (if any);
 - (c) the record of the improper conduct enquiry reproduced by the Authority, if it is an appeal referred to in section 30(1)(c) of the Act;
 - (d) copies of relevant documentation in possession of the Authority relating to the decision appealed against; and
 - (e) the response which the Authority wishes to submit in respect of the appeal.
- (2) The presiding officer may at any stage after submission of the appeal file, request the Authority for the submission of-
- (a) further documentation, information, submissions or reasons of the Authority relating to the decision against which the appeal is lodged; and
 - (b) further documentation, information or submissions of the appellant relating to the appeal.
- (3) The Authority must within the period determined for this purpose by the presiding officer making the request referred to in sub-regulation (2), or if no such period has been determined, within a reasonable period-
- (a) submit the requested documentation, information, submissions or reasons to the presiding officer;
 - (b) communicate the request of the presiding officer referred to in sub-regulation (2)(b) to the appellant in writing, and
 - (c) submit to the presiding officer any documentation, information or submissions submitted by the appellant to the Authority in response to the request of the presiding officer.
- (4) The appeal committee-
- (a) may deal with an appeal in terms of this regulation in any manner it deems fair and just and without hearing any oral evidence, representations or submissions;
 - (b) must deal with an appeal within a reasonable time; and
 - (c) must, in considering the merits of an appeal, properly consider, in addition to any other relevant factor consideration-
 - (i) the objects of the Act and the Authority; and
 - (ii) whether the appellant has demonstrated, on a balance of probabilities, good cause for interference with the decision against which an appeal is lodged.

- (5) The appeal committee may, after consideration of the grounds of the appeal and any other information at its disposal-
 - (a) dismiss an appeal that does not comply with the requirements contemplated in regulation 3(1) and (2);
 - (b) direct that the appellant be given an opportunity to remedy any defect in the appeal;
 - (c) confirm, set aside or vary the decision against which an appeal has been lodged or substitute for such decision any other decision which in its opinion ought to have been taken;
 - (d) give any order which is appropriate and just in the circumstances.
- (6) The presiding officer must as soon as possible inform the Authority in writing of the decision of the appeal committee in terms of sub-regulation (5) and, if the appeal has been finalized, cause the appeal file to be returned to the Authority.
- (7) The Authority must as soon as possible after receipt of the communication referred to in sub-regulation (6), inform the appellant in writing of such decision and take any further steps required from the Authority to ensure the implementation of the decision of the appeal committee.

PART II APPLICATIONS FOR EXEMPTIONS

Lodging of an application for exemption

5. An applicant lodges an application for exemption in writing, addressed to the director at the street address of the head office of the Authority, or by registered post remitted to the director at the postal address of the head office of the Authority.

Requirements for an application for exemption and related matters

6. (1) An application for exemption must be in writing and must contain-
 - (a) the full and accurate identification and contact particulars of the applicant;
 - (b) the provisions of the Act from which an exemption is sought; and
 - (c) the full and detailed grounds on which the application is based.
- (2) The Authority must provide an applicant-
 - (a) with a written acknowledgement of receipt of the applicant documentation; and
 - (b) with a reasonable opportunity to rectify or add to the applicant documentation before it is submitted to the Minister.

- (3) The Authority may after receipt of an application for exemption-
 - (a) request such further documentation or particulars in writing from an applicant relating to any matter pertaining to the application as it may deem necessary; and
 - (b) conduct such investigation or inspection of the applicant in terms of the Act as it may deem necessary in the circumstances.

Submission of applications for exemptions and consideration thereof by Minister

- 7. (1) The Authority must as soon as possible after receipt of an application for exemption that materially complies with the requirements of regulation 6(1), and after having taken any of the steps contemplated in regulation 6(3) that are necessary in the circumstances, submit to the Minister-
 - (a) the applicant documentation; and
 - (b) the information and submissions which the Authority wishes to place before the Minister in terms of section 1(2) or 20(5) of the Act.
- (2) The Minister may at any stage after the submission of the documentation contemplated in sub-regulation (1), request the Authority for the submission of-
 - (a) further documentation, information or submissions of the Authority relating to the application; and
 - (b) further documentation, information or submissions of the applicant relating to the application.
- (3) The Authority must within the period determined by the Minister for this purpose, or within a reasonable period if no such period has been determined-
 - (a) submit any further documentation, information or submissions to the Minister as requested by the Minister;
 - (b) communicate any request of the Minister referred to in sub-regulation (2)(b) the applicant in writing; and
 - (c) submit to the Minister any documentation, information or submissions submitted by the applicant to the Authority in response to the request of the Minister.
- (4) After the Minister has decided an application for exemption, the Minister may-
 - (a) communicate this decision in writing to the director and request him or her to inform the applicant accordingly;
 - (b) request the director to enter the particulars of any exemption granted by the Minister into the register of exemptions; and

- (c) direct the Service, if the Minister has granted the exemption, to publish a notice in the *Gazette* as contemplated in section 1(2) or 20(5) of the Act.
- (5) The director must as soon as possible after receipt of a communication from the Minister contemplated in sub-regulation (4)(a), inform the applicant in writing of the decision of the Minister.

Lapsing, renewal and review of exemptions

8. (1) An exemption granted by the Minister in terms of section 1(2) or 20(5) of the Act lapses, subject to these regulations, one year after the date on which the applicable notice was published in the *Gazette*, unless the Minister determined otherwise when the exemption was granted or the exemption has been renewed in terms of these regulations.
- (2) (a) Any person who wishes an exemption to be renewed, must apply for a renewal not earlier than 90 days and not later than 45 days before the date on which the exemption will lapse as contemplated in sub-regulation (1).
- (b) An application for the renewal of an exemption is subject to the provisions, with the necessary changes, applicable to the submission and consideration of an application for exemption in terms of these regulations.
- (c) If an application for the renewal of an exemption has been submitted to the Authority in terms of these regulations, the exemption remains valid, subject to these regulations, until the application is decided by the Minister.
- (3) The Minister may at any time review an exemption that has been granted or renewed in terms of the Act and, if there is a sound reason therefor-
- (a) withdraw the exemption;
 - (b) amend or remove any condition to which the exemption is subject, or add the conditions that may be necessary;
 - (c) amend the scope of the exemption; or
 - (d) take any other step permitted by law in regard to the exemption.

PART III GENERAL PROVISIONS

Duties of director and role of the Authority

9. (1) The director must ensure that-
- (a) proper administrative systems are in place to enable the Authority to perform its administrative functions in terms of these regulations;

- (b) the Authority complies with all its duties in terms of these regulations properly and timeously; and
 - (c) the Authority respects and promotes the independence of any appeal committee.
- (2) The administrative work relating to the functioning of appeal committees and the submission of applications for exemptions to the Minister is performed by the Authority.
- (3) The director must appoint a staff member of the Authority-
- (a) for the purposes of dealing with appeals-
 - (i) to generally communicate and liaise with a presiding officer, subject to regulation 9(1)(c), as may be necessary to facilitate the performance of his or her function in terms of the Act;
 - (ii) to prepare and submit an appeal file to a presiding officer;
 - (iii) to receive and deal with requests and other communications from a presiding officer as contemplated in these regulations;
 - (iv) to communicate and liaise with an appellant at the request of a presiding officer as contemplated in these regulations;
 - (v) to submit documentation, information, submissions or reasons referred to in regulation 4(3) to a presiding officer;
 - (vi) to facilitate the provision of administrative support from the Authority to a presiding officer as may be required by him or her for the performance of his or her functions; and
 - (vii) to perform any other function incidental to the above; and
 - (b) for the purposes of dealing with applications for exemptions and renewals of exemptions-
 - (i) to liaise with an applicant as may be necessary in respect of an application;
 - (ii) to submit applicant documentation to the Minister;
 - (iii) to submit documentation, information or submissions referred to in regulation 7(3) to the Minister;
 - (iv) to liaise with the Minister on behalf of the Authority as contemplated in section 1(2) and 20(5) of the Act;
 - (v) to receive and deal with any request and communications from the Minister regarding an application for exemption;
 - (vi) to perform the administrative tasks contemplated in these regulations in regard to renewals and reviews of exemptions;

(vii) to keep a register in which the particulars, as determined by the director, of all exemptions and renewals of exemptions are recorded; and

(viii) to perform any other function incidental to the above.

Transitional provisions

10. (1) With effect from the date of commencement of these regulations, any appeal pending in terms of the repealed regulations must continue and be disposed of as though these regulations have not been made, unless the interests of justice require otherwise.
- (2) The provisions of sub-regulation (1) apply, with the necessary changes, to any application for exemption.
- (3) An exemption granted before the date of commencement of these regulations, lapses one year after such commencement, unless it has been renewed in terms of these regulations.

Repeal of regulations

11. The Appeal Regulations, 2002 are hereby repealed.

Authoritative text

12. The provisions of the English text of these regulations prevail in the case of a difference between the English text and any other text.

Short title and commencement

13. These regulations are called the Regulations Relating to Appeals and Applications for Exemptions, 2003 and come into operation on the date that they are published in the *Gazette*.

FORM FOR LODGING AN APPEAL

PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO. 56 OF 2001)

REFERENCE NUMBER _____
(for official use)

1. **PARTICULARS OF APPELLANT**

1.1 Full name (and name of natural person acting on behalf of a security business which appeals)

1.2 Contact address for correspondence on the appeal

1.3 Contact telephone and fax numbers and other electronic contact particulars

1.4 Registration number as security service provider (if any)

1.5 Name, capacity and contact particulars of person submitting or preparing an appeal on behalf of the appellant

2. **NATURE OF DECISION APPEALED AGAINST**

(Make cross in the appropriate box)

2.1	Refusal to grant application for registration	
2.2	Refusal to grant application for renewal of registration	
2.3	Cancellation of renewal of registration	
2.4	Suspension of registration	
2.5	Withdrawal of registration	
2.6	Conviction of improper conduct	
2.7	Penalty imposed in consequence of finding of improper conduct	
2.8	Other decision – describe:	

3. **SUMMARY OF PARTICULARS OF DECISION APPEALED AGAINST**

Provide a brief description of the decision appealed against, mentioning the person taken the decision and the date of the decision (if this is known to the appellant)

4. **SUMMARY OF GROUNDS OF APPEAL**

5. **DOCUMENTS THAT SHOULD BE ATTACHED TO THIS FORM (DEPENDING ON THE FACTS AND CIRCUMSTANCES)**

5.1 True copy of resolution of security business authorizing the lodging of the appeal
5.2 True copies of all documents received from the Authority in respect of the decision appealed against
5.3 True copies of record of improper conduct enquiry and all exhibits admitted at the enquiry
5.4 A document containing full and clear details of the grounds of appeal and the arguments and representations submitted by the appellant (including factors in mitigation of punishment, if applicable)

6. **LIST OF DOCUMENTS ATTACHED BY THE APPELLANT TO THIS FORM**

Provide a complete list of all documents attached to the form

--

7. **SIGNATURE OF APPELLANT AND DATE OF SUBMISSION TO THE AUTHORITY**

--

End.

IMPORTANT TO NOTE:

In terms of section 38(3)(c) of the Private Security Industry Regulation Act 56 of 2001, any person who in any application, inquiry, improper conduct proceedings, appeal or other proceedings in terms of this Act or the Levies Act, willfully furnishes information or makes a statement which is false in any material respect, is guilty of an offence and liable to a heavy fine or to imprisonment for a maximum period of 2 years.

Amendment to Regulations made under the Security Officers Act (Act No. 92 of 1987) -Fees Payable

BOARD NOTICE 141 OF 2001

REGULATIONS MADE UNDER THE SECURITY OFFICERS ACT, 1987 (ACT NO. 92 OF 1987)

The Security Officers' Interim Board has, with the concurrence of the Deputy Minister for Safety and Security, acting on behalf of and on assignment by the Minister for Safety and Security, under section 32(1) of the Security Officers Act, 1987 (Act No. 92 of 1987), made the Regulations in the Schedule hereto.

SCHEDULE

AMENDMENT OF REGULATIONS MADE UNDER THE SECURITY OFFICERS ACT, 1987 (ACT NO. 92 OF 1987)

Definition

1. In this Schedule "the Regulations" means the regulations published by Government Notice No. R.797 in *Government Gazette* No. 12413 of 2 April 1990, as amended.

Commencement

2. The Regulations contained in this Schedule will come into effect on 1 November 2001.

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended-
 - (a) by the substitution for the definition of "prescribed fees" of the following definition:

"prescribed fees" means the fees referred to in regulation 9(2)",
 - (b) by the insertion after the definition of "police official" of the following definition:

"prescribed amount" in regard to a security business means the applicable amount contemplated in regulation 9(3), and in the case of any person not acting as a security business the amount contemplated in regulation 9(4)",

- (c) by the insertion after the definition of "Registrar of the Board" of the following definition:
- "security business" means a company, close corporation, sole proprietor, partnership or business trust, or any other entity or body, which is not a natural person, registered as a security officer",
- (d) by the insertion after the definition of "security business" of the following definition:
- "serve", in relation to any document required in terms of these regulations to be served on any person, means to deliver, or offer to deliver, a copy of the document personally to such person, or at such person's employment, business or residential address to any person over the age of 16 years that resides or is employed at such address".

Substitution of regulation 7 of the Regulations

4. The following regulation is hereby substituted for regulation 7 of the Regulations:

"Payment of prescribed amounts and related matters

7. (1) Every security business must within seven (7) days after the end of each calendar month furnish to the Board a document signed or authenticated by a responsible person acting on behalf of such security business, a return with the full name, identity number, the registration number of a person registered by the Board in terms of section 11(3) of the Act, and the period of service during that month, of every person employed, used, deployed or made available by it for the rendering of a security service during that month or any part of that month.
- (2) The prescribed amount must, subject to section 18(4)(a) of the Act, be paid to the Board either in accordance with sub-regulation (3) or sub-regulation (4) of this regulation.
- (3) (a) The full prescribed amount for a calendar year must, subject to this sub-regulation be paid to the Board before or on 1 April of the calendar year concerned.
- (b) In the case of a security business becoming registered in terms of section 11 of the Act on or after 1 April in a given calendar year, the prescribed amount in respect of that year must be paid as provided for in sub-regulation (4).
- (c) In the case of a security business intending to pay in accordance with paragraph (a) of this sub-regulation-
- (i) notice of such an intention must be given to the Board in writing on or before 20 January of the calendar year in question, failing of which the prescribed amount will be payable as provided for in sub-regulation (4) of this regulation;

- (ii) the prescribed amount payable for the calendar year is, subject to the provision of paragraph (e), determined in accordance with regulation 9(3) on the basis of the highest number of persons employed, used, deployed or made available by the security business in question for the rendering of a security service at any time in any of the three calendar months preceding April of the calendar year in question and it is deemed for the purposes of calculating the prescribed amount for the calendar year in question that the said number of persons will be so employed, used, deployed or made available for every month of that calendar year.
- (d) The Board must, within a reasonable time after the end of each calendar year, calculate the amount that should have been paid in accordance with regulation 9(3) by every security business which has elected to pay in terms of the method provided for in this sub-regulation, taking into account the actual number of persons employed, used, deployed or made available by the security business for the purpose of rendering a security service in each of the twelve (12) months of the calendar year in question, and may, by a written notice served on a security business, require from that business any additional information or documentation needed by the Board for this calculation to be furnished to it within the period provided for in such notice.
- (e) If, after the calculation referred to in paragraph (d) of this sub-regulation, there is a difference between the calculated amount and the amount already paid by the security business in terms of paragraph (c)(ii) of this sub-regulation-
 - (i) the Board must refund to the security business any amount overpaid by it within thirty (30) days after the calculation has been completed; and
 - (ii) the security business in question must pay to the Board any amount owing to the Board in terms of the said calculation within thirty (30) days after a notice from the Board in this regard has been served on it.
- (4) A security business which does not pay the prescribed amount to the Board in terms of sub-regulation (3) of this regulation, must pay to the Board within seven (7) days after the end of each calendar month, commencing in January and ending in December, the applicable prescribed amount arrived at in terms of regulation 9(3).
- (5) Nothing in this regulation prevents a written agreement being entered into between the Board and any security business regarding the method and date of payment of the prescribed amount.
- (6) For the purpose of the un-expired portion of the calendar year January to December 2001 the prescribed amount will be payable only in terms of sub-regulation (4).

- (7) Any security business which fails to pay to the Board, within the period allowed for such payment-
- (a) the prescribed amount payable in terms of this regulation;
 - (b) the prescribed amount in terms of an agreement referred to in sub-regulation (5);
 - (c) an amount contemplated in sub-regulation (3)(e)(ii) of this regulation; or
 - (d) an amount deducted by it in terms of section 18(4)(a) of the Act-
- must pay to the Board-
- (a) the unpaid amount referred to above;
 - (b) interest on the unpaid amount at the rate determined from time to time in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975); and
 - (c) a penalty arrived at by calculating ten (10) percent of that sum arrived at by adding to the unpaid amount the interest accrued thereon to date of calculation of the penalty;

Provided that if the Board is satisfied that the failure to pay or pay over any amount in terms of this regulation was not due to an intent to evade or postpone payment or otherwise evade obligations in terms of this regulation or the Act, it may remit the whole or part of the penalty imposed in terms of paragraph (c) of this sub-regulation.

- (8) Any amount of interest and any penalty owing to the Board in terms of sub-regulation (7) will be regarded as part of the prescribed amount as contemplated in section 18(1) of the Act.
- (9) Any security business which-
- (a) fails to provide the Board with the return contemplated in sub-regulation (1) within the period allowed;
 - (b) fails to provide the Board with a return that materially complies with the requirements contained in sub-regulation (1);
 - (c) intentionally or negligently submits a return to the Board which is false or misleading in any material respect;
 - (d) fails to provide the Board within the period allowed with the additional information required by the Board in terms of sub-regulation (3)(d); or

- (e) fails to deduct an amount as contemplated in section 18(4)(a) of the Act from the remuneration of a security officer that it should have deducted, will be guilty of an offence and on conviction liable to a fine not exceeding R1,000.
- (10) Any director, member, owner, partner, trustee, administrator or manager, according to the case, of a security business-
- (a) who fails to take all reasonable steps to ensure that the security business of which he or she is a director, member, owner, partner, trustee, administrator or manager, according to the case-
 - (i) complies with an obligation in terms of sub-regulation (1);
 - (ii) complies with an obligation in terms of sub-regulation (3)(d);
 - (iii) complies with an obligation in terms of section 18(4)(a) of the Act to deduct an amount from the remuneration of a security officer;
 - (iv) does not contravene a provision of sub-regulation (9); or
 - (b) who intentionally or negligently submits a return referred to in sub-regulation (1) to the Board or allows such a return to be submitted to the Board on behalf of the security business in question, which is false or misleading in any material respect-will be guilty of an offence and on conviction be liable to a fine not exceeding R1,000 or to imprisonment for a period not exceeding six (6) months".

Repeal of regulation 8 of the Regulations

5. Regulation 8 of the Regulations is hereby repealed.

Amendment of regulation 9 of the Regulations

6. The following regulation is hereby substituted for regulation 9 of the Regulations:

“Prescribed fees and prescribed amounts

- 9. (1) Value Added Tax (VAT) must be added to any fee or amount of money referred to in this regulation.
- (2) The prescribed fee contemplated in section 11(1)(b) of the Act will be as follows-
 - (a) Every application for registration as a security officer by a security business for the purposes of regulation 2:
R2,000.00

(b) Every application for registration as a security officer not falling under paragraph (a):
R42.20.

(3) The prescribed amount contemplated in section 18(1) of the Act must, in the case of a security business registered as a security officer, be determined by applying the following formula:

$$T = X + (Y \times Z)$$

Where:

T = the total amount payable to the Board per calendar month.
X = the amount of R250.00 per calendar month or any part thereof.
Y = the number of persons employed, used, deployed or made available to render a security service for a calendar month or any part thereof.
Z = any amount of R0.70 per calendar month or any part thereof.

(4) The prescribed amount contemplated in section 18(1) of the Act must in the case of a person registered as a security officer, not acting as a security business, be arrived at as follows:

R7.00* per calendar month or any part thereof.

Authoritative text

7. The provisions of the English text of the Regulations will prevail in the case of a difference between English text and any other text.



PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY

Kindly note that the Private Security Industry Regulatory Authority established in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) made an application in terms of Section 47 of the Public Finance Management Act (PFMA) to be registered as a public entity which was duly approved by the Minister of Finance.

Following the registration as a public entity, the Authority will now deregister as a VAT vendor and accordingly will no longer charge VAT to its clients with effect from 1 December 2008.

In terms of the PFMA, the Authority is legally obliged to collect all revenue that is due to it. The Authority therefore encourages you to pay your account regularly as legal action will be taken against defaulters.

NTUSI MBODLA
ACTING CHIEF EXECUTIVE OFFICER
30.10.2008

Code of Conduct for Security Service Providers, 2003

DEPARTMENT OF SAFETY AND SECURITY

**CODE OF CONDUCT PRESCRIBED UNDER THE PRIVATE SECURITY INDUSTRY
REGULATION ACT, 2001 (ACT NO. 56 OF 2001)**

CODE OF CONDUCT FOR SECURITY SERVICE PROVIDERS, 2003

I, Charles Nqakula, Minister for Safety and Security, have, acting under section 28(1) of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), after consultation with the Council for the Private Security Industry Regulatory Authority, prescribed the Code of Conduct for Security Service Providers and have made the regulations under section 35 of the Private Security Industry Regulation Act contained in the Schedule.

Signed at Cape Town on this day of February 2003.

C NQAKULA
Minister for Safety and Security

SCHEDULE

CODE OF CONDUCT FOR SECURITY SERVICE PROVIDERS, 2003

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PREAMBLE

WHEREAS the primary objects of the Private Security Industry Regulatory Authority are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and the interest of the private security industry itself;

AND WHEREAS section 28 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) places a duty on the Minister for Safety and Security to prescribe a code of conduct that must meet the requirements of section 28 and must be legally binding on all security service providers, irrespective of whether they are registered with the Private Security Industry Regulatory Authority or not, as well as on certain other persons -

Be it prescribed therefore by the Minister for Safety and Security the rules contained in this Schedule that embody the minimum standards of conduct with which every security service provider and employer of in-house security officers must comply.

CHAPTER 1

PURPOSE, APPLICATION AND INTERPRETATION OF THE CODE

Purpose of Code

1. The purpose of this Code is to provide binding rules that all security service providers and employers of in-house security officers must obey in order to -
 - (a) promote, achieve and maintain a trustworthy and professional private security industry which acts in terms of the law applicable to the members of the industry;
 - (b) promote, achieve and maintain compliance by security service providers with a set of minimum standards of conduct which is necessary to realise the objects of the Authority;
 - (c) promote, achieve and maintain compliance by security service providers with their obligations towards the State, the Authority, consumers of security services, the public, and the private security industry in general;
 - (d) ensure the payment of the applicable minimum wages and compliance with standards aimed at preventing exploitation or abuse of employees in the private security industry, including employees used to protect or safeguard merely the employer's own property or other interests, or persons or property on the premises of, or under the control of the employer; and

- (e) provide for matters incidental to the above.

Application of Code

- 2. This Code applies to –
 - (a) all security service providers, whether registered with the Authority or not, in practising the occupation of security service provider, in rendering a security service or carrying on business in the rendering of a security service, or in performing any other act or function which is subject to the Act;
 - (b) every person using his or her own employees to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control, to the extent provided for in the Act and this Code;
 - (c) every category or class of persons as contemplated in the Act, taking into account the nature of the relevant provisions of this Code as well as the juristic nature of such persons; and
 - (d) the relevant conduct of a security service provider at any place, irrespective of whether the conduct was committed within or outside the Republic.

Interpretation of Code

- 3. This Code must be interpreted to give effect to the objects of the Authority as contemplated in section 3 of the Act and to the purpose of this Code.

Definitions

- 4. In this Code any expression to which a meaning has been assigned in the Act will bear the meaning so assigned and, unless the context indicates otherwise -
 - “Act” means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and all regulations made in terms of the Act;
 - “act” includes an omission;
 - “ammunition” means ammunition as defined in the Firearms Control Act, 2000 (Act No. 60 of 2000);
 - “Bill of Rights” means the Bill of Rights contained in the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
 - “client” means a person with whom a security service provider has concluded a contract, with the exception of an employment contract, providing for the rendering of a security service to such person, and includes a person -
 - (a) who approaches a security service provider or who is being approached by a security service provider in connection with the rendering of a security service to such person;
 - (b) with whom a security service provider negotiates for the rendering of a security service to such person;

(c) to whom a security service provider makes an offer to render a security service; or

(d) to whom a security service provider renders or has rendered a security service;

“director” includes a staff member of the Authority appointed as the acting director by the Council or to whom any of the powers or duties of the director have been delegated or assigned, as the case may be;

“document” means any recorded information, regardless of the form or medium thereof;

“employer of in-house security officers” means a person who is not a security service provider and who uses his or her own employees to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control;

“enquiry” means an enquiry as defined in the Improper Conduct Enquiries Regulations;

“equipment” means any equipment used for the purpose of or in connection with the rendering of a security service, including security equipment and a working animal used in the rendering of a security service, but does not include a firearm, a weapon or ammunition;

“firearm” means a firearm as defined in the Firearms Control Act, 2000 (Act No. 60 of 2000);

“improper conduct”, in relation to a security service provider, means improper conduct contemplated in regulation 24, and in relation to an employer of in-house security officers, means improper conduct contemplated in regulation 26;

“Improper Conduct Enquiries Regulations” means the Improper Conduct Enquiries Regulations, 2003;

“key” includes any object which is used to lock, unlock, close or engage a locking mechanism of any kind;

“Levies Act” means the Private Security Industry Levies Act, 2002 (Act No. 23 of 2002) after it has come into operation;

“monitoring device” means a monitoring device as defined in section 1 of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992);

“presiding officer” means a presiding officer as defined in the Improper Conduct Enquiries Regulations;

“prosecutor” means a prosecutor as defined in the Improper Conduct Enquiries Regulations;

“repealed code of conduct” means the code of conduct for security officers drawn up and made binding in terms of the Security Officers Act, 1987 (Act No. 92 of 1987) and which is repealed by regulation 31;

“respondent” means a respondent as defined in the Improper Conduct Enquiries Regulations;

“Security Services” means the South African Police Service, the South African National Defence Force, the Directorate of Special Operations, the National Intelligence Agency, the South African Secret Service, the Department of Correctional Services and any other official law enforcement agency or service established by law, irrespective of whether such an agency or service resorts at national, provincial or local government level;

“security training establishment” means a person, establishment or institution providing security training and which has been accredited for this purpose in terms of any law;

“this Code” means the Code of Conduct for Security Service Providers contained in this Schedule;

“weapon” means any weapon other than a firearm.

CHAPTER 2

GENERAL OBLIGATIONS OF SECURITY SERVICE PROVIDERS AND MINIMUM STANDARDS OF CONDUCT

General obligation to act in terms of applicable law

5. (1) A security service provider must comply with the provisions of the Act and with all other legal provisions and obligations, whether they are based on or form part of common law or statutory law, that are applicable or relevant to -
 - (a) practising the occupation of security service provider;
 - (b) rendering a security service;
 - (c) carrying on business in the rendering of a security service; and
 - (d) performing any other act or function which is subject to the Act.
- (2) The general obligation contained in sub-regulation (1) does not derogate from any specific obligation imposed by this Code and no specific obligation in this Code derogates from the generality of sub-regulation (1).

General obligations towards the Authority

6. (1) A security service provider must, within his or her ability, render all reasonable assistance to and co-operate with the Authority to enable the Authority to perform any function which it may lawfully perform.
- (2) A security service provider may not perform any act which is calculated or likely to prevent the Authority from performing a function which it may lawfully perform, or which is calculated or likely to cause or encourage disobedience or resistance to the Authority or to any function which the Authority may lawfully perform.

- (3) A security service provider must without undue delay furnish the Authority with all information or documentation lawfully required by the Authority from such a security service provider.
- (4) A security service provider must take all reasonable steps to ensure that any information provided to the Authority by such security service provider is true and accurate.
- (5) A security service provider may not perform any act which is calculated to bring the Authority into contempt or disrepute.
- (6) A security service provider must discharge all his or her financial obligations of whatever nature to the Authority whenever an amount is due and payable, and, without derogating from the generality of the foregoing, may not tender or deliver a cheque to the Authority that is not good for payment in respect of any amount owed to the Authority by any person.
- (7) A security service provider may not use any person or body as a front or nominee, and no security service provider may allow himself or herself to be used as a front or nominee, in order to hinder, obstruct or weaken the Authority in the performance of any of the functions of the Authority, or which is calculated or likely to mislead the Authority or cause harm to the interests of the Authority, the State or any person.
- (8) A security service provider must be honest in all his or her dealings with the Authority.
- (9) A security service provider must, without undue delay, provide the Authority with all relevant information which is in his or her knowledge concerning the rendering of a security service by a security business which is not registered with the Authority.
- (10) (a) A security business must keep full and proper financial records, available for inspection by the Authority, for a period of at least 3 years from the date of any transaction, of all income and expenditure of the security business on account of the rendering of any security service by it.
(b) The provisions of regulation 10(2), (3), (4), (5) and (6) of the Private Security Industry Regulations, 2002 are, with the necessary changes, applicable to the obligation contemplated in paragraph (a).

General obligations towards the Security Services and organs of State

7. (1) A security service provider must, within his or her ability, render all reasonable assistance and co-operation to the members and employees of the Security Services to enable them to perform any function which they may lawfully perform.
- (2) A security service provider may not interfere with, resist, obstruct, hinder or delay a member or an employee of a Security Service or an organ of State in the performance of a function which such person may lawfully perform.

- (3) A security service provider must, without undue delay, furnish all the information and documentation to a member or employee of a Security Service or an organ of State which such member or employee may lawfully require.
- (4) A security service provider may not unjustly cast reflection upon the honesty, professional reputation, skill, knowledge, service or qualifications of any member of the Security Services.
- (5) A security service provider must be honest in all his or her dealings with a Security Service and with any organ of State.
- (6) A security service provider may not, whether directly or indirectly, request or use a member or former member of a Security Service or any employee or former employee of a Security Service or an organ of State, to obtain any information, document, object or assistance for the purposes of rendering a security service, where such member, former member, employee or former employee, will contravene a law or the conditions of his or her service, as the case may be, in providing such information, document, object or assistance.
- (7) A security service provider must, where the importance, nature or circumstances of a security service, or the nature or extent of the risks guarded against, or any other relevant fact, reasonably requires such a step, officially provide a responsible member of the Service with all relevant information regarding the rendering or proposed rendering of the security service, and maintain contact with such a member if this is reasonable and prudent in the circumstances or if so requested by such member.

General obligations towards the public and the private security industry

8. (1) A security service provider must at all times act in a manner which –
 - (a) does not threaten or harm the public or national interest;
 - (b) promotes the stability of the private security industry;
 - (c) promotes good discipline in the private security industry;
 - (d) maintains and promotes the status of the occupation of security service provider; and
 - (e) promotes efficiency in and responsibility with regard to the rendering of security services.
- (2) A security service provider may not infringe any right of a person as provided for in the Bill of Rights and, without derogating from the generality of the foregoing -
 - (a) may not unfairly discriminate directly or indirectly against any person or unfairly deny any person equal service, employment or employment benefits on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; and

- (b) may not break open or enter premises, conduct a search, seize property, arrest, detain, restrain, interrogate, delay, threaten, injure or cause the death of any person, demand information or documentation from any person, or infringe the privacy of the communications of any person, unless such conduct is reasonably necessary in the circumstances and is permitted in terms of law.
- (3) Every security service provider must endeavour to prevent crime, effectively protect persons and property and refrain from conducting himself or herself in a manner which will or may in any manner whatsoever further or encourage the commission of an offence or which may unlawfully endanger the safety or security of any person or property.
- (4) A security service provider may only use force when the use of force as well as the nature and extent thereof is reasonably necessary in the circumstances and is permitted in terms of law.
- (5) A security service provider may not hold himself or herself or any other security service provider out to any person as having any authority, power, status, capacity, level of training, accreditation, registration, qualification or experience which he or she or the other security service provider does not have.
- (6) A security service provider may only possess or carry a firearm, ammunition or a weapon, or possess or use any equipment, if such conduct is lawful.
- (7) A security service provider may only use a firearm in circumstances and in a manner permitted by law.
- (8) A security service provider may not act in any manner that threatens or poses an unreasonable risk to the public order or safety.
- (9) A security service provider must, when performing functions in a public place, do so with due regard to the safety, security and other rights of the members of the public who are present in such a place.
- (10) A security service provider may not through the medium of any other person or body, or by using such person or body as a front or nominee, do or attempt to do or achieve anything, which would not be permissible for him or her to do or to achieve, and no security service provider may allow himself or herself to be used as a front or nominee for such a purpose.
- (11) A security service provider must in practising this occupation, rendering a security service or carrying on business in the rendering of a security service, or when he or she is undergoing security training or assessment of security training, knowledge or skill, always act in an honest and trustworthy manner.
- (12) A security service provider rendering a security service –
 - (a) must treat members of the public with whom he or she comes into contact with the respect and courtesy that is reasonable in the circumstances;
 - (b) may not incite, encourage or help any person to use force unlawfully or commit any unlawful act; and

- (c) may not use abusive language or language which may be reasonably construed as the advocacy of hatred or contempt that is based on race, colour, ethnicity, sex, religion, language or belief.
- (13) A security service provider may not use or be under the influence of alcohol or a narcotic drug while rendering a security service.
- (14) Without derogating from any provision in this regulation, a security service provider may not intentionally commit a delict against any person while rendering a security service.
- (15) A security service provider may not unjustly cast reflection upon the honesty, professional reputation, skill, knowledge, quality of service, background or qualifications of any other security service provider, and, without derogating from the generality of the foregoing, may not intentionally or negligently disseminate false information concerning another security service provider or lay a false charge or make a false complaint against or concerning another security service provider.
- (16) A security service provider may not -
- (a) in any unlawful manner infringe the goodwill of another security service provider, and, without derogating from the generality of the foregoing, may not make false statements regarding a security service provider, instigate a boycott against a security service provider, or unlawfully exercise physical or psychological pressure on clients, employees or suppliers of a security service provider;
 - (b) engage in an act of unlawful competition in competing with another security service provider, and, without derogating from the generality of the foregoing, may not mislead the public, copy the distinguishing signs or misappropriate the performance of another security service provider, exploit the reputation of another security service provider, unduly influence the public with regard to his or her own services, bribe an employee or agent of a client or potential client of another security service provider, obtain or use the trade secrets or confidential business information of another security service provider or compete with another security service provider in breach of a statutory or contractual obligation;
 - (c) interfere with, hinder or obstruct another security service provider or his or her personnel in the rendering of a security service or the administration of his or her business affairs; or
 - (d) interfere with or tamper with the equipment, firearms, ammunition, or weapons used by another security service provider in the rendering of a security service, or intercept or interfere with the communications of another security service provider.

General obligations towards clients, and issues related thereto

9. (1) A security service provider may not use any misrepresentation, duress, unreasonable pressure or undue influence, or unfairly or unreasonably exploit

or misuse the circumstances of any client, or use any method or act prohibited in terms of legislation or common law dealing with corruption, when communicating, negotiating or contracting with a client.

(2) A security service provider must, whenever a client reasonably needs information to make an informed decision or to exercise or protect a right or comply with a duty, furnish sufficient and correct information which is or should reasonably be within the knowledge of the security service provider, to the client, including such information concerning –

- (a) the risks to which the client is exposed and the client's needs in respect of a particular security service;
- (b) the client's needs in respect of the use of equipment, firearms and weapons in the rendering of a security service to the client;
- (c) the security service that he, she or any other security service provider that will be used to render the security service, is entitled, able and qualified to render;
- (d) the correct and full remuneration, reward, fee or benefit payable by the client in respect of the relevant security service;
- (e) the registration status as security service provider, training level and relevant conditions of service of the security officers used or to be used in rendering the security service;
- (f) the management, control and supervision of the rendering of the security service as well as reasonable contact particulars of security officers performing such functions;
- (g) the procedures, firearms, ammunition, weapons and equipment used or to be used by security officers in the rendering of the security service;
- (h) any contractor or sub-contractor used or to be used in connection with the rendering of the security service, as well as the control and supervision of such contractor or sub-contractor;
- (i) any matter on which the security service provider is by law obliged to furnish information to the client; and
- (j) any matter on which the client lawfully and reasonably requests information.

(3) A security service provider may not -

- (a) make a contractual offer, conclude a contract or make himself or herself available for the rendering of a security service or the performance of any function, that requires a legal power, licence, permit, authorisation, accreditation, level of training, skill, knowledge, qualification, registration, security officers, firearm, ammunition, weapon, equipment, infrastructure, capacity or premises, which he or she does not have or is not likely to have when he or she has to commence rendering such a service or perform such a function;

- (b) render or purport to render a security service or perform any function that requires a legal power, licence, permit, authorisation, accreditation, level of training, skill, knowledge, qualification, registration, security officers, firearm, ammunition, weapon, equipment, infrastructure, capacity or premises, which he or she does not have;
 - (c) submit tender documentation for the rendering of a security service to any person or body that contains any materially false or misleading information, or that omits any information of a material nature;
 - (d) make a contractual offer to or conclude a contract with a client containing any term, condition or provision that -
 - (i) excludes, limits or purports to exclude or limit the legal liability of the security service provider towards the client in respect of any malicious, intentional, fraudulent, reckless or grossly negligent act of the security service provider, his or her security officers or other personnel, or any other person used by the security service provider or recommended by him or her to the client;
 - (ii) places a duty or purports to place a duty on the client to indemnify or compensate the security service provider or any other person in respect of any act referred to in subparagraph (i) by a person for whose conduct the client is not independently responsible in law;
 - (e) make a contractual offer to or conclude a contract with a client containing any term, condition or provision that excludes or limits or purports to exclude or limit any duty on the security service provider in terms of the Act or this Code or any right which a client has in terms of the Act or this Code, or which constitutes or purports to constitute a waiver of any such right by the client; or
 - (f) make a contractual offer to or conclude a contract with a client containing any term, condition or provision that is prohibited in terms of any legislation dealing with unfair or unconscionable contractual provisions.
- (4) A security service provider must ensure, at his or her own cost, that the full contractual agreement with the client in respect of the rendering of a security service is reduced to writing and signed by or on behalf of the security service provider and that a true copy thereof is provided to the client without undue delay.
- (5) A security service provider –
- (a) must render the security service for which he or she has bound himself or herself contractually in accordance with the terms and conditions of the contract, the Act and this Code;
 - (b) must render the security service for which he or she has bound himself or herself contractually, and perform any related function or work,

with such a degree of skill, diligence and care as may be expected of a reasonable, competent and qualified security service provider in the circumstances; and

- (c) may not demand a larger performance from a client for the rendering of a security service than that which is legally owed by the client, or receive such a performance, unless the client voluntarily decides to render an additional performance.
- (6) A security service provider must at the request of a client provide the client with a written account containing sufficient particulars to enable the client to estimate the correctness of the payment or performance required from the client for the rendering of a security service.
- (7) A security service provider must without undue delay furnish a client who has paid any amount for the rendering of a security service with a correct and full receipt, or similar adequate written or electronic proof, in respect of such payment.
- (8) A security service provider must protect the rights and legally recognised interests of a client in a reasonable manner, in accordance with all applicable law and with due regard to the rights and legally recognised interests of all other parties concerned.
- (9) A security service provider may not in rendering a security service make any person available or use or permit the use of any firearm, ammunition, weapon or equipment if this exposes the client or any other person to any unlawful harm, or the unreasonable risk of unlawful harm, of which the security service provider is aware or should reasonably be aware.
- (10) A security service provider may not -
 - (a) use or make any person available for the rendering of a security service, whether directly or indirectly, unless such a person -
 - (i) is registered as a security service provider in terms of the Act and may render the relevant security service in terms of the Act; and
 - (ii) has successfully completed the security training required in terms of law in respect of the rendering of the relevant security service;
 - (b) use another security service provider than the one provided for in the contract with the client to render the security service or part thereof to a client, unless -
 - (i) the client has given consent thereto; and
 - (ii) such security service provider is registered with the Authority and is entitled, able and equipped, and has the infrastructure and capacity, to render the security service in question.
- (11) A security service provider may not, where a conflict of interests of the security service provider and the client, or a conflict of interests of different clients of

the security service provider, exists, arises or is reasonably foreseeable in the rendering of a security service, act or continue to act without prior full disclosure to and the consent of the interested parties.

- (12) A security service provider may not in any manner whatsoever disclose confidential information concerning a client, including information relevant to the security, safety or protection of a client or of his or her legally recognised interests, that has come to his or her knowledge on account of the rendering or negotiating the rendering of a security service to such client, without having obtained prior consent for the disclosure, unless the security service provider is legally obliged to disclose the information or the disclosure is made in circumstances in which it is not reasonably possible to obtain the client's consent and the disclosure is made in the interests of the client.
- (13) A security service provider may not in any manner whatsoever, without the written consent of a client, use confidential information concerning the client that has come to his or her knowledge on account of the rendering or negotiating the rendering of a security service –
 - (a) to obtain or retain an unfair financial benefit at the expense of the client; or
 - (b) to unfairly compete with the client in business.
- (14) A security service provider must take all reasonably necessary steps to protect and safeguard any confidential information concerning a client, including information relevant to the security, safety or protection of the client or of his or her legally recognised interests, that has come to his or her knowledge on account of the rendering or negotiating the rendering of a security service to such client.
- (15) A security service provider may not –
 - (a) without a legal ground justifying such conduct, use, alienate, hand over, be in possession of, or retain any property of a client, or be or remain on the premises or any part thereof of a client; or
 - (b) intentionally or through gross negligence damage or lose any property of a client.
- (16) Without derogating from any provision in this regulation, a security service provider may not commit a delict against his or her client in the rendering of a security service to the client or in any act related to the rendering of a security service.

CHAPTER 3

PROVISIONS REGARDING CERTAIN CATEGORIES AND CLASSES OF SECURITY SERVICE PROVIDERS AND DIFFERENT TYPES OF SECURITY SERVICES

Application of this chapter

10. The obligations in this chapter do not derogate from any obligation imposed in terms of any other provision of this Code on a security service provider, and no obligation contained elsewhere in this Code derogates from any specific obligation on a security service provider contained in this chapter.

Employers

11. (1) A security service provider employing any person in the private security industry must comply with every obligation imposed by law towards or in respect of such employee, and, without derogating from the generality of the foregoing –
- (a) may not abuse or exploit the employee;
 - (b) must ensure that the employee receives the full wages and all other service benefits due to him or her as provided for in terms of any applicable legal provision, agreement, contract or determination;
 - (c) must comply with all obligations imposed by law on employers to ensure that their employees qualify for or receive any social security benefits or other financial benefits provided for in terms of law;
 - (d) must comply with all obligations imposed by law on employers aimed at the training and skills development of such an employee; and
 - (e) must comply with all obligations imposed by law on employers relating to the deduction of annual amounts as contemplated in section 43 of the Act, or levies as contemplated in section 4(2)(b) of the Levies Act, from the employee's wages, remuneration or reward, as well as the payment thereof to the Authority.
- (2) A security service provider must, before employing any person as a security officer, take all reasonable steps to verify the registration status as security service provider, level of training, qualifications and all other relevant facts concerning such a person.
- (3) A security service provider may not directly or indirectly order, allow or use a security officer in his or her employ to render a security service which requires a legal power, status, licence, permit, authorisation, accreditation, registration, level of training, skill, knowledge or qualification that the security officer does not have.
- (4) A security service provider may not directly or indirectly order or allow a security officer in his or her employ to possess or use a firearm, ammunition, weapon or any equipment, unless such possession and use is lawful and the security officer has been successfully trained as required by law in the

possession and use thereof and is able to use it lawfully, safely and correctly in the relevant circumstances.

- (5) A security service provider must take reasonable steps to ensure that a security officer in his or her employ who is used or made available to render a security service to any person -
 - (a) has been properly informed about the nature and scope of his or her functions and duties as well as his or her legal powers in this regard;
 - (b) is properly managed, controlled and supervised;
 - (c) has been lawfully provided with and is in lawful possession of all the equipment necessary to render the security service in question;
 - (d) has been lawfully provided with and is in lawful possession of any fire-arm, ammunition and any weapon necessary to render the security service in question; and
 - (e) is properly disciplined in the case of a transgression of the disciplinary code contemplated in sub-regulation (8)(a).
- (6) A security service provider must, at his or her own cost, provide all assistance reasonably necessary and possible to security officers in his or her employ to ensure the receipt by them of all relevant information from the Authority regarding any matter relevant to the regulation of the private security industry, including their financial obligations towards the Authority and the renewal of registration as security service provider as contemplated in the Act.
- (7) A security service provider must, at his or her own cost and as often as it is reasonable and necessary, but at least once a year, provide training or cause such training to be provided, to all the security officers in his or her employ to enable them to have a sufficient understanding of the essence of the applicable legal provisions regarding the regulation of the private security industry and the principles contained in this Code.
- (8)
 - (a) A security service provider must draw up, or caused to be drawn up, and properly and consistently enforce a disciplinary code in respect of all security officers in his or her employ.
 - (b) The disciplinary code contemplated in paragraph (a) must contain rules which adequately reflect the relevant values and principles contained in this Code as well as any further rules that are reasonably necessary to ensure disciplined, honest, safe, reasonable, professional and competent conduct by security officers in the circumstances in which they are employed and made available by the security service provider for the rendering of one or more security services.
 - (c) The obligation contemplated in paragraph (a) comes into operation 30 days after promulgation of these regulations.
- (9) A security service provider must, without undue delay, officially provide a responsible member of the Service with all relevant information which is in his or her knowledge concerning the commission or alleged commission of any

offence specified in the Schedule of the Act by a security officer in his or her employ.

Persons occupying certain offices or positions

12. A security service provider who is a director, member, partner, trustee, administrator or a person in control of any security business, as the case may be, and any person performing executive or managing functions in respect of a security business, must at all times while he or she is occupying such office or having such position, take all reasonably practicable steps within his or her powers and capacity to ensure that the security business complies with the provisions of the Act, the Levies Act and this Code.

Management, control and supervision

13. (1) A security business must ensure that its business affairs, the rendering of a security service by it, the security officers used or made available by it and its compliance with obligations in terms of the Act, the Levies Act and this Code, are properly managed, controlled, supervised and administered by appropriately trained, experienced or skilled persons.
- (2) Without derogating from the generality of sub-regulation (1), a security business must implement systems and practices of management, control, supervision and administration that are reasonably necessary in view of the nature and size of the security business, the number of security officers used or made available and the nature and scope of the security services rendered, to ensure –
- (a) effective control over the rendering of security services by the security business;
 - (b) lawful, trustworthy, disciplined and competent conduct by security officers used or made available by the security business; and
 - (c) compliance with the obligations of the security business in terms of the Act, the Levies Act and this Code.

Security service providers making security officers available to others

14. (1) A security service provider who makes a security officer or the services or the assistance of a security officer available to any other security service provider with a view to the rendering of a security service to a third party, is bound by all the provisions of this Code that are applicable to security service providers generally as well as to employers specifically as contemplated in regulation 11 of this Code, with the necessary changes.
- (2) Without derogating from the generality of sub-regulation (1), a security service provider contemplated in sub-regulation (1) must ensure that a security officer who, or whose services or assistance, is thus made available by him or her, receives the full wages and all other service benefits due to the security officer as provided in terms of the applicable law.
- (3) A security service provider who makes a security officer or the services or the assistance of a security officer available to any other security service provider as contemplated in sub-regulation (1), may only do so if such security service

provider is registered with the Authority and is otherwise entitled to render the security service in respect of which the security officers are made available.

Private investigators

15. A security service provider performing the functions of a private investigator -
- (a) may not perform any act which interferes with, hinders or obstructs a Security Service or an organ of State in performing any function that it may lawfully perform, or advise or agree with a client to perform such an act;
 - (b) may not advise, assist or incite a client or any other person to commit an offence, a delict, breach of contract or any other type of unlawful act;
 - (c) may not undertake or assist in the entrapment of any person for the purposes of obtaining evidence of an offence, a delict or breach of contract unless such conduct is permitted in terms of law and any official permission that may be legally required, has been obtained;
 - (d) may not conceal facts regarding the commission of an offence from a Security Service or any organ of State, or agree with a client to conceal such facts from a Security Service or any organ of State;
 - (e) may not employ a corrupt, illegal or unlawful method or technique, or use unlawful threats, intimidation, misrepresentation or false pretences, to gather information, gain access to premises or secure the assistance or co-operation of any person;
 - (f) may not possess or use a monitoring device or any other equipment for the purposes of surveillance, counter-surveillance or any other aspect of an investigation where such possession or use is in conflict with any legal provision or any provision of this Code or constitutes an unlawful act against any person;
 - (g) may not possess or use a specialised device used for the opening, closing or engaging of locking mechanisms, or possess or use any specialised device used to reproduce or duplicate keys, or possess any key code or key, unless he or she is able to provide a justifiable reason to the Authority or the Service, as the case may be, for such possession or use;
 - (h) may not possess, carry or use any document or object for the purposes of providing a false or incorrect indication of his or her identity, status, powers or functions, unless he or she is able to demonstrate to the Authority or the Service, as the case may be, that such conduct -
 - (i) is essential for the purposes of conducting a lawful investigation which has been properly mandated by a client; and
 - (ii) is not in conflict with any legal provision and does not constitute an unlawful act against any person;
 - (i) may not falsify, distort, manufacture, destroy or unlawfully interfere with any evidence of an offence, delict, breach of contract or any other legally relevant fact;

- (j) may not request or obtain information, assistance or co-operation from any person in circumstances where such person contravenes or would contravene the law, the conditions of his or her service, a binding code of ethics, acts in breach of trust or a contractual obligation, or infringes a person's right to privacy, in providing such information, assistance or co-operation;
- (k) may not promise, offer or give any consideration to a person in order to obtain information, assistance or co-operation from such person in circumstances where the person contravenes the law, the conditions of his or her service, a binding code of ethics or acts in breach of trust or a contractual obligation in agreeing to or accepting such offer or consideration;
- (l) may only undertake an investigation on behalf of a client in terms of a proper mandate reduced to writing and signed by or on behalf of the client containing at least the name and address of the private investigator, the name and address of the client, a description of the subject matter of the investigation, the date of the mandate, the remuneration, reward, fee or benefit in respect of the investigation, and details of any prepayment to be made by the client;
- (m) must keep the mandate contemplated in paragraph (l) for a period of at least three years in a secure place;
- (n) may not demand from a client any amount or performance which is not in accordance with the amount contemplated in paragraph (l), or otherwise legally due to him or her;
- (o) may not demand, receive or retain any payment, performance or property which is not due and payable from a client or any other person, or which serves as remuneration in respect of any act by the private investigator that is prohibited in terms of this Code;
- (p) may not provide false or misleading information to a client regarding an investigation mandated by the client, including information relating to the cost of such investigation or any part thereof, the time spent on the investigation and the methods used or to be used for the purposes of the investigation; and
- (q) must provide a client without undue delay with a written and signed report regarding any investigation mandated by the client, if so requested by the client and if there is no legal ground on which the client's request may be denied.

Locksmiths

16. A security service provider performing the functions of a locksmith –

- (a) must perform all his or her functions in a trustworthy and competent manner;
- (b) must take all reasonable steps necessary to eliminate or minimise any risk of harm to a client as a result of any service rendered by him or her to the client;
- (c) may only open, close or engage a locking mechanism of any nature, or reproduce, duplicate, manufacture or provide a key, start any vehicle or

- cause a vehicle to be capable of movement by unlocking a locking mechanism, if the person requesting such action furnishes written proof of his or her identity with sufficient contact particulars as well as the authority to make the request, and, if relevant in the circumstances, the consent of any other person required by law in respect of the requested action, has been furnished;
- (d) must make reasonable enquiries, if reasonably necessary in the circumstances, to verify the proof and information contemplated in paragraph (c);
 - (e) must keep a proper record of the information contemplated in paragraph (c) for a period of at least three years in a secure place;
 - (f) may not perform any act, unless duly authorised thereto, that compromises or may probably compromise the security of a client or of any other person, including an act which affects the security and efficiency of any locking mechanism, key, vehicle, door, gate or security system;
 - (g) may not duplicate, reproduce, manufacture or possess any key or key code, or modify a key blank, unless this is done for lawful purposes;
 - (h) must exercise effective and reasonable control over a specialised device, belonging to or utilised by him or her, which is used to open, close or engage locking mechanisms;
 - (i) must exercise effective and reasonable control over a specialised device, belonging to or utilised by him or her, to reproduce or duplicate keys;
 - (j) may only provide a key code, ready cut keys or a specialised device contemplated in paragraph (h) and (i), belonging to or utilised by him or her, to a person who is entitled to receive and possess it in terms of a ground recognised by law;
 - (k) may only provide information or training or impart skills regarding the opening, closing or engaging of locking mechanisms of any nature to a person that is registered as a security service provider, enrolled to receive training at a security training establishment, or entitled to receive such information, training or skills in terms of some other ground recognised by law; and
 - (l) must acquire any key or key code, or any specialised device contemplated in paragraph (h) and (i), in a lawful manner.

Security consultants and advisers

17. A security service provider giving advice on the protection or safeguarding of a person or property, any other type of security service, or on the use of security equipment -
- (a) must provide a client with sound, honest and objective advice which is in the best interests of the client;

- (b) must timeously disclose to a client any direct or indirect benefit of whatever nature that he or she or any business in which he or she has any direct or indirect interest may obtain if the client acts upon the advice provided by the security service provider;
- (c) must comply, with the necessary changes, with the provisions of regulation 15(a), (b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (o), (p) and (q);
- (d) may not advise a client to use any corrupt, unlawful or illegal method, system or practice;
- (e) may not advise a client to use or obtain the services of a security service provider who is not registered with the Authority, trained up to the level required by law and otherwise entitled by law to render the security service in question;
- (f) may not advise a client to use or obtain the services of any person who is untrustworthy or incompetent; and
- (g) may not advise a client to obtain, use or provide any equipment, firearm, ammunition or weapon, or implement any system, which is faulty or has a defect that may render it an inherent source of danger to any person.

Security service providers ensuring order and safety on premises used for sporting, recreational, entertainment or similar purposes

18. A security service provider who has contracted to render a service aimed at ensuring order and safety on premises used for sporting, recreational, entertainment or similar purposes, whether on his or her own or in conjunction with any other person, and any security officer used to render such a service, must act in accordance with all the obligations imposed by the Act and all other applicable legal provisions.

Security service providers providing security training

19. A security service provider providing security training –
- (a) must provide security training which is of a high quality;
 - (b) must employ training methods and materials which are the most suitable in the circumstances in order to promote and achieve the officially approved outcomes in respect of the security training;
 - (c) may only provide security training in terms of his or her own qualifications and official accreditation or authorisation, and must comply with every condition attached to such accreditation or authorisation;
 - (d) must provide security training in accordance with all legal provisions applicable to such training;
 - (e) must provide security training in accordance with any relevant and officially approved or accredited syllabus, programme, standards and training material;
 - (f) must, when assessing or testing the knowledge, insight or skills of any person

undergoing security training, or the outcomes of such training, use the applicable officially approved methods and procedures, act in an objective manner without showing any prejudice or favour, and may not employ any method or practice that would distort the actual knowledge, insight or skills of the person undergoing the assessment or testing; and

- (g) must take reasonable steps to ensure that the security training in question is only provided to a person entitled in terms of the Act to undergo such training.

Security service providers installing, servicing or repairing security equipment or performing certain functions regarding monitoring devices

- 20. (1) A security service provider installing, servicing or repairing security equipment -
 - (a) must perform all his or her functions in a reasonable, trustworthy and competent manner;
 - (b) may not install, service or repair any security equipment if the client's possession or use thereof, is or will be unlawful;
 - (c) must make reasonable enquiries, if reasonably necessary in the circumstances, to verify the lawfulness of a client's possession and use of security equipment as contemplated in paragraph (b);
 - (d) may not install, service, repair or modify any security equipment if he or she would act unlawfully in doing so;
 - (e) may only install security equipment if it has been acquired in a lawful manner by him or her or by the client, as the case may be;
 - (f) may not install security equipment if he or she knows or should reasonably know that it is faulty, untrustworthy or defective, or that it poses an unreasonable risk to the legitimate interests of the client or any other person;
 - (g) must, when he or she installs security equipment, provide the client with all information reasonably necessary in regard to the care of and the effective use of the security equipment, unless the client is already in possession of such information;
 - (h) must take all reasonable steps necessary in the circumstances to eliminate or minimise any risk of harm to a client as a result of the service rendered by him or her;
 - (i) may not perform any act, unless duly authorised thereto, that compromises or may probably compromise the security of a client or any other person entitled to security;
 - (j) may only provide information or training or impart skills concerning the operation, installation, repair or servicing of security equipment to a person who is registered as a security service provider, enrolled to receive training at a security training establishment, or is otherwise entitled to have access to such information, training or skills;

- (k) may not make a misrepresentation to a client regarding any security equipment provided to the client by him or her; and
 - (l) must without undue delay officially report to the Service the unlawful possession or use of security equipment by any person that he or she is aware of.
- (2) A security service provider manufacturing, importing, distributing, advertising, possessing or using a monitoring device -
- (a) may only manufacture, import, distribute, advertise, possess or use a monitoring device in compliance with all applicable legal provisions;
 - (b) must keep proper records as may be prescribed in terms of the Act;
 - (c) must submit information to the Authority on all transactions regarding monitoring devices as may be prescribed in terms of the Act;
 - (d) may not supply a monitoring device to any person if the identity and sufficient contact particulars of such person as well as the identity and sufficient contact particulars of the end user thereof are not confirmed in writing to him or her before he or she supplies such a monitoring device;
 - (e) may not supply a monitoring device to any person if such person's possession or use thereof and the possession or use thereof by the end user, is or will be unlawful;
 - (f) must make reasonable enquiries, if reasonably necessary in the circumstances, to verify the lawfulness of a person's possession and use of a monitoring device as contemplated in paragraph (e), as well as the accuracy of any relevant information provided by the client to him or her; and
 - (g) must comply, with the necessary changes, with the provisions of regulation 15(a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k), and regulation 17(d) and (e).

CHAPTER 4

OBLIGATIONS ON EMPLOYERS OF IN-HOUSE SECURITY OFFICERS

Effect of Code

21. The obligations in this Code do not derogate from any obligation imposed on an employer of in-house security officers in terms of the Act or any other law.

General obligations

22. (1) An employer of in-house security officers –
- (a) must comply with the Act and with all other legal provisions and obligations, whether they are based on or form part of common law or

statutory law, that are applicable or relevant to the employment and use of in-house security officers as contemplated in section 28(2) of the Act, or for any other function that is subject to the Act;

- (b) is, in addition to any other provision of this Code which is on account of its wording applicable to him or her, subject to regulations 6, 7, 8, 11, 12 and 13, to the extent that they are applicable, with the necessary changes.
- (2) The general obligations contemplated in this regulation do not derogate from the specific obligations contained in this chapter.

Specific obligations

23. An employer of in-house security officers -

- (a) may only use, permit or direct an employee to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control, or to perform any other function that is subject to the Act, if such employee is registered as a security service provider in terms of the Act, has successfully completed the security training required by law relevant to this function, and is otherwise entitled by law to perform the function in question;
- (b) must, before using, permitting or directing an employee to render a security service contemplated in paragraph (a), take all reasonable steps necessary to verify the registration status as security service provider, level of training, qualifications and any other relevant facts concerning such employee;
- (c) must appoint and use, subject to paragraph (a), a responsible person to manage, supervise and control all employees used, permitted or directed to render a security service as contemplated in paragraph (a);
- (d) must appoint and use a responsible person to ensure that the obligations of the employer of in-house security officers towards the Authority are discharged in terms of law;
- (e) may not, whether for reward or not, except to the extent allowed in section 28(2) of the Act, make any employee or his or her services available for the purposes of rendering a security service to any other person;
- (f) must, in respect of all employees used, permitted or directed to render a security service as contemplated in paragraph (a), comply with the relevant provisions of the Levies Act as well as all applicable laws and measures promulgated in terms of law regarding minimum wages and standards aimed at preventing exploitation or abuse of employees in the private security industry; and
- (g) must take all reasonable steps to ensure that the employer of in-house security officers does not act as a security service provider, and that the impression is not created that the employer of in-house security officers is, or acts, as a security service provider.

CHAPTER 5

PROVISIONS REGARDING IMPROPER CONDUCT, THE ENFORCEMENT OF THE CODE AND OTHER MATTERS RELATING THERETO, AND GENERAL PROVISIONS

Improper conduct by a security service provider

24. (1) A security service provider who -
- (a) contravenes or fails to comply with a provision of the Act;
 - (b) commits an offence contemplated in the Schedule to the Act;
 - (c) contravenes or fails to comply with a provision of the Levies Act; or
 - (d) contravenes or fails to comply with a provision of this Code,
- is guilty of improper conduct and on conviction liable to any penalty contemplated in regulation 25.
- (2) Any conspiracy, incitement or attempt to commit any act contemplated in sub-regulation (1)(a), (c) or (d) constitutes improper conduct as contemplated in sub-regulation (1).
- (3) The intentional provision of assistance by a security service provider to another security service provider to commit any act referred to in sub-regulation (1)(a), (c) or (d) constitutes improper conduct as contemplated in sub-regulation (1).
- (4) Every contravention or failure to comply as contemplated in sub-regulation (1), (2) or (3), constitutes a separate count of improper conduct in respect of which any penalty contemplated in regulation 25 may be imposed.

Penalties in respect of improper conduct by a security service provider

25. (1) A security service provider who has been found guilty of improper conduct in terms of the procedures contemplated in regulation 29, is subject to the following penalties -
- (a) a warning or a reprimand;
 - (b) suspension of registration as security service provider for a period not exceeding 6 months;
 - (c) withdrawal of registration as security service provider;
 - (d) a fine not exceeding R10 000, which is payable to the Authority;
 - (e) publication of appropriate details of the conviction of improper conduct and any penalty imposed; or
 - (f) any combination of the above.

- (2) The penalty contemplated in sub-regulation (1)(b), (c) or (d) may be suspended on any condition that is reasonably likely to promote compliance with this Code by the security service provider.
- (3) In addition to any other relevant fact, the following must be considered and properly taken into account in imposing any penalty contemplated in this regulation -
 - (a) the gravity and nature of the improper conduct;
 - (b) the known relevant circumstances of the security service provider, and such other relevant circumstances as the security service provider may prove to exist;
 - (c) the national interest as well as the interest of the public and of the private security industry;
 - (d) the risk posed by the improper conduct to the rights or legitimate interests of any person;
 - (e) any previous conviction of the security service provider of improper conduct in terms of this Code or the repealed code of conduct;
 - (f) the financial or other benefit or likely benefit obtained or that may be obtained by the security service provider through the commission of improper conduct; and
 - (g) any actual or potential harm caused by the security service provider through the commission of improper conduct.

Improper conduct by an employer of in-house security officers

26. (1) An employer of in-house security officers who -
 - (a) contravenes or fails to comply with a provision of the Act;
 - (b) contravenes or fails to comply with a provision of the Levies Act; or
 - (c) contravenes or fails to comply with a provision of this Code,is guilty of improper conduct and on conviction liable to any penalty contemplated in regulation 27.
- (2) Any conspiracy, incitement or attempt to commit any act contemplated in sub-regulation (1)(a), (b) or (c) constitutes improper conduct as contemplated in sub-regulation (1).
- (3) Every contravention or failure to comply as contemplated in sub-regulation (1), or (2) constitutes a separate count of improper conduct in respect of which any penalty contemplated in regulation 27 may be imposed.

Penalties in respect of improper conduct by an employer of in-house security officers

27. (1) An employer of in-house security officers who has been found guilty of improper conduct in terms of the procedures contemplated in regulation 29, is subject to the following penalties -
- (a) a warning or a reprimand;
 - (b) a fine not exceeding R10 000, which is payable to the Authority;
 - (c) publication of appropriate details of the conviction of improper conduct and any penalty imposed; or
 - (d) any combination of the above.
- (2) The penalty contemplated in sub-regulation (1)(b), (c) or (d) may be suspended on any condition that is reasonably likely to promote compliance with this Code by the employer of in-house security officers.
- (3) In addition to any other relevant fact, the following must be considered and properly taken into account in imposing any penalty contemplated in this regulation -
- (a) the gravity and nature of the improper conduct;
 - (b) the known relevant circumstances of the employer of in-house security officers, and such other relevant circumstances as the employer of in-house security officers may prove to exist;
 - (c) the national interest as well as the interest of the public;
 - (d) the risk posed by the improper conduct to the rights or legitimate interests of any person;
 - (e) any previous conviction of the employer of in-house security officers of improper conduct in terms of this Code;
 - (f) the financial or other benefit or likely benefit obtained or that may be obtained by the employer of in-house security officers through the commission of improper conduct; and
 - (g) any actual or potential harm caused by the employer of in-house security officers through the commission of improper conduct.

Improper conduct also a criminal offence

28. Any person who commits improper conduct in terms of this Code, is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 24 months, or to both a fine and such imprisonment.

Procedures

29. (1) The procedures for the enforcement of this Code by the Authority are contained in the Improper Conduct Enquiries Regulations.

- (2) The procedures contained in the Improper Conduct Enquiries Regulations are incorporated into this Code.

Rules of evidence and related matters

30. (1) (a) For the purposes of the enforcement of this Code through an enquiry, the rules of evidence in this regulation and in the Improper Conduct Enquiries Regulations will apply.
- (b) The rules of evidence contained in the Improper Conduct Enquiries Regulations are incorporated into this Code.
- (2) For the purposes of imposing upon any person who is a security service provider or an employer of in-house security officers, liability for improper conduct in terms of this Code, any act is deemed to have been performed by such security service provider or employer of in-house security officers if –
- (a) it is performed by or on the instruction or with the permission, express or implied, given by a person who –
- (i) performs executive or managing functions in respect of the security service provider or employer of in-house security officers;
 - (ii) is a director, member, partner, trustee, administrator or person in control, as the case may be, of the security service provider or employer of in-house security officers; or
 - (iii) is an employee of the security service provider or employer of in-house security officers; and
- (b) the person contemplated in paragraph (a) acts -
- (i) in the exercise of his or her powers;
 - (ii) in the performance of his or her functions or duties;
 - (iii) within the scope of his or her employment; or
 - (iv) in furthering or endeavouring to further the interests of the security service provider or employer of in-house security officers.
- (3) A security service provider and an employer of in-house security officers may be found guilty of improper conduct at an enquiry if the presiding officer is of the opinion that on the basis of all the evidence tendered at the enquiry, the prosecutor has proved the charge of improper conduct on a balance of probabilities.
- (4) If, at an enquiry, an element of the improper conduct in question consists of a finding or decision by a court of law or by any other tribunal or an official of the State, a certificate purporting to have been signed by the director recording such finding or decision and the source on which the information in

the certificate is based, will be *prima facie* evidence of such a finding or decision.

- (5) The provisions of sub-regulation (4) do not exclude any other evidence that may be adduced by the prosecutor in terms of law to prove a charge of improper conduct or any element of improper conduct and do not derogate from the power of a presiding officer to make a finding regarding any element of improper conduct on any such evidence.
- (6)
 - (a) The provisions of the Computer Evidence Act, 1983 (Act No. 57 of 1983) are applicable, with the necessary changes, to an enquiry.
 - (b) For the purposes of the application of the Computer Evidence Act, 1983 in terms of paragraph (a), the Authority is deemed to be a "public institution" as contemplated in the said act.
- (7) If in any enquiry it is an element of the improper conduct that a person referred to in the charge sheet rendered a security service or was used or made available to render a security service and the prosecutor shows that the respondent is a security business and employed the person in question at the relevant time, it will be accepted that the said person rendered the security service or was used or made available to render the security service as alleged in the charge sheet, unless there is evidence to the contrary which raises a reasonable doubt.
- (8) If in any enquiry the prosecutor produces a document provided to the Authority by the respondent, an official or employee of the respondent, a person apparently in the employ of the respondent, or by a person apparently assisting the respondent in his or her business or activities, or if the document was found by an inspector at premises apparently used by the respondent in connection with the rendering of a security service or the administration or management of the rendering of a security service or security officers, the document will be proof of the information contained therein to the extent that the prosecutor expressly relies on the truthfulness or accuracy of such information, unless there is evidence to the contrary which raises a reasonable doubt.
- (9) If in any enquiry the prosecutor produces evidence of an oral statement made to an inspector by the respondent, an official of the respondent, a person apparently in the employ of the respondent, or by a person apparently assisting the respondent in his or her business or activities, the oral statement will be proof of the information contained in such oral statement to the extent that the prosecutor expressly relies on the truthfulness or accuracy of such information, unless there is evidence to the contrary which raises a reasonable doubt.
- (10) Evidence submitted at an enquiry which has been obtained in an unlawful manner, is admissible at an enquiry unless the admission thereof would render the enquiry materially unfair or would be prejudicial to the public interest.
- (11) No provision or penalty contained in this Code, with the exception of criminal proceedings in respect of an offence contemplated in regulation 28, may be construed as indemnifying any person against a prosecution, conviction or imposition of a penalty in respect of any offence in a court of law.

- (12) No criminal proceedings or any other legal proceedings of whatever nature, whether such proceedings are anticipated, pending or concluded will indemnify a security service provider or an employer of in-house security officers against an enquiry, a conviction of improper conduct or the imposition of a penalty in respect of improper conduct in terms of the procedures contemplated in regulation 29.

Repeal of code of conduct

31. The code of conduct for security officers drawn up and made binding in terms of the Security Officers Act, 1987 (Act No. 92 of 1987) is, subject to the transitional provisions in the Improper Conduct Enquiries Regulations, hereby repealed.

Authoritative text

32. The provisions of the English text of these regulations will prevail in the case of a difference between the English text and any other text.

Short title and commencement

33. These regulations are called the Code of Conduct for Security Service Providers, 2003 and come into operation on 1 March 2003.

Improper Conduct Enquiries Regulations, 2003

DEPARTMENT OF SAFETY AND SECURITY

**REGULATIONS MADE UNDER THE PRIVATE SECURITY INDUSTRY REGULATION ACT,
2001
(ACT NO. 56 OF 2001)**

IMPROPER CONDUCT ENQUIRIES REGULATIONS, 2003

I, Charles Nqakula, Minister for Safety and Security, have, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), made the Regulations in the Schedule.

Signed at Cape Town on this day of February 2003.

C NQAKULA
Minister for Safety and Security

SCHEDULE

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Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act will bear the meaning so assigned and, unless the context otherwise indicates –

“Act” means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and all regulations made in terms of the Act;

“charge”, in the relation to a security service provider, means an allegation of improper conduct made with a view to the institution of an enquiry;

“Code of Conduct” means the Code of Conduct for Security Service Providers, 2003 prescribed in terms of section 28 of the Act;

“complainant” means any person who submits a charge to the director;

“day” does not include a Saturday, Sunday or public holiday;

“director” includes a staff member of the Authority appointed as the acting director by the Council or to whom any of the powers or duties of the director have been delegated or assigned, as the case may be;

“document” includes any recorded information, regardless of the form or medium;

“employer of in-house security officers” means a person who is not a security service provider and who uses his or her own employees to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control;

“enquiry”, in relation to a security service provider, means an enquiry as the result of a charge in terms of these regulations, and includes any proceedings in terms of regulations 16 or 17;

“head of finance and administration” means the staff member of the Authority appointed as the head of its finance and administration division and includes a staff member appointed as the acting head of finance and administration;

“improper conduct” means improper conduct as defined in the Code of Conduct;

“party”, in relation to an enquiry, means the prosecutor or the respondent;

“presiding officer” means a person appointed in terms of regulation 2(1);

“prosecutor” means a person appointed in terms of regulation 2(5);

“repealed regulations” means the regulations repealed in terms of regulation 24;

“respondent” means a security service provider in connection with whom an enquiry is held, including a director of a company, a member of a close corporation, a partner of a partnership, a trustee of a business trust, an administrator or person in control of a foundation, and a person who performs executive or management functions in respect of any security business, as the case may be, in connection with which an enquiry is held, representing the company, close corporation, partnership, business trust, foundation or other security business, and any other person who has been substituted for any such representative in terms of regulation 5;

“security business” also includes an employer of in-house security officers;

“security service provider” also includes an employer of in-house security officers;

“these regulations” means the regulations contained in this Schedule.

Appointment, designation, functions and dismissal of presiding officers and of prosecutors

2. (1) The director may, with the concurrence of the Council, from time to time appoint, on such terms and conditions as the Council may approve, persons

who are not in the employ of the Authority and who are suitably qualified, experienced and independent to preside over enquiries into charges of improper conduct against security service providers, and to perform any other function provided for in these regulations, and may terminate any such appointment.

- (2) The director may designate a presiding officer appointed in terms of sub-regulation (1) to enquire into a charge or any category of charges.
- (3) The functions and powers of a presiding officer are as provided for in the Act and in these regulations.
- (4) A presiding officer may administer an oath or affirmation to a witness at any enquiry.
- (5) The director may from time to time appoint, on such terms and conditions as he or she may determine, suitably qualified and experienced persons as prosecutors to perform the functions of a prosecutor in terms of these regulations, and may terminate any such appointment.
- (6) A prosecutor performs his or her functions subject to these regulations and under the authority and control of the director.
- (7) A document purporting to be signed by the director and which states that a person mentioned therein has been appointed or designated as a presiding officer or as a prosecutor, as the case may be, constitutes *prima facie* proof of such an appointment and designation in any proceedings where the document is submitted.

Submission of charge, citation of respondent and notification to respondent

3.
 - (1) A person who intends to submit a charge with reference to a security service provider must deliver the charge to the director by means of an affidavit essentially containing the particulars contemplated in sub-regulation (2).
 - (2) An affidavit referred to in sub-regulation (1) must contain the following particulars insofar as they are within the knowledge of the complainant -
 - (a) the full name, employment or business address and residential address of the complainant and of the respondent and, where the complaint is directed against a company, close corporation, partnership, business trust, foundation or other security business, the name, employment or business address and residential address of a director of the company, a member of the close corporation, a partner of the partnership, a trustee of the business trust, an administrator or person in control of the foundation, or a person performing executive or managing functions in respect of such a security business, who may be cited as representative of the respondent; and
 - (b) such particulars of the alleged improper conduct of which the respondent is said to be guilty, including particulars as to the date and place of the alleged improper conduct, as may be reasonably necessary to inform the respondent of the nature of the charge.

- (3) The director may take the steps that he or she deems necessary in the circumstances to establish whether there is *prima facie* evidence to support a charge that has been submitted to him or her in terms of sub-regulation (1).
- (4) If the director is satisfied that the requirements contemplated in sub-regulations (2) and (3) have been met, he or she may direct a prosecutor in writing to -
- (a) cause a copy of the charge as contained in a charge sheet, as well as all the other notices and documentation contemplated in this sub-regulation, to be served on the respondent;
 - (b) notify the respondent in writing that the Authority intends to institute an enquiry as a result of the charge as contained in the charge sheet;
 - (c) request the respondent in writing to give written notice to the director within the period stated in the request of whether the respondent intends to plead guilty or not guilty to the charge as contained in the charge sheet;
 - (d) notify the respondent in writing that if the respondent intends to plead not guilty to the charge, the respondent may make substantiated submissions to the director within the stated period, indicating the basis of the defence in such a manner and with such detail that it will enable the director to make a decision on whether the enquiry should be instituted, instituted in respect of certain charges only, or which may shorten the proceedings at an enquiry;
 - (e) notify the respondent in writing that if the respondent intends to plead guilty to the charge, the respondent must submit an affidavit to that effect within the stated period to the director and may also submit substantiated representations in connection with the imposition of an appropriate penalty;
 - (f) notify the respondent in writing that the affidavit contemplated in paragraph (e), submitted on behalf of a respondent which is a security business, must be accompanied by a certified resolution or other adequate proof that the person acting on behalf of the respondent is authorised to plead guilty and submit representations in connection with the imposition of a penalty;
 - (g) inform the respondent in writing of the respondent's rights as contemplated in sub-regulation (6);
 - (h) request the respondent in writing to give written notice to the director within the period mentioned in the request of whether the respondent intends to be present at the enquiry or not, and whether the respondent will be represented by a legal practitioner or assisted by a person appointed by him or her; and
 - (i) notify the respondent in writing of the possible penalties provided for in the Code of Conduct if the respondent is found guilty of improper conduct.

- (5) A direction to a prosecutor in terms of these regulations may be executed by any other prosecutor.
- (6) A respondent has, subject to these regulations, the following rights in regard to an enquiry –
 - (a) to be present at the enquiry or any part thereof;
 - (b) not to be present at the enquiry or any part thereof;
 - (c) to be represented by a legal practitioner or assisted by a person appointed by him or her;
 - (d) to call a witness and to give or submit evidence;
 - (e) to be heard;
 - (f) to cross-examine any person called as a witness in support of the charge;
 - (g) to dispute any evidence submitted in support of the charge;
 - (h) to inspect any document or object produced as evidence; and
 - (i) to exercise any other right provided for in these regulations.
- (7) A legal practitioner who represents a respondent at an enquiry or part thereof while the respondent is absent, must submit proof to the satisfaction of the presiding officer that he or she has been duly authorised to represent the respondent.

Conviction on plea of guilty without enquiry

- 4. (1) Where an affidavit referred to in regulation 3(4)(e) is submitted to the director, the director may -
 - (a) if it appears from the affidavit that the respondent intends to plead guilty to the charge, find the respondent guilty of the charge in question; or
 - (b) if there is a sound reason therefor –
 - (i) require supplementary relevant information from the respondent or any other person in order to again consider the matter in terms of paragraph (a); or
 - (ii) issue a summons in terms of regulation 7(1).
- (2) The director may, after convicting a respondent contemplated in sub-regulation (1)(a) of improper conduct, and with due regard to the representations (if any) submitted by the respondent, as well as the applicable considerations contemplated in the Code of Conduct, impose a penalty on the respondent provided for in the Code of Conduct.

- (3) The director may make any appropriate order provided for in these regulations in regard to the respondent.
- (4) The respondent must be informed through a written notice signed by the director and served on him or her, of every decision of the director in terms of this regulation.

Substitution of representative of respondent

5. (1) If a representative as referred to in regulation 3(2)(a) at any time ceases to be a director of the company, a member of the close corporation, a partner of the partnership, a trustee of the business trust, an administrator or person in control of the foundation, or a person performing executive or management functions in regard to the security business, or is not able due to circumstances beyond his or her control to further act as a representative in the aforesaid capacity, or if there is another sound reason to replace the representative, the director may on application by the representative, any other interested person or the prosecutor, substitute any other person who may in terms of the definition of "respondent" in regulation 1 act as representative, for such representative, whereupon the proceedings will continue as if no substitution has taken place.
- (2) If no other person is available to substitute a representative as contemplated in sub-regulation (1), the proceedings may continue in the absence of the respondent.
- (3) The citing of a person to represent a security service provider or the substitution of a representative in terms of these regulations, will not relieve such representative from personal liability as a security service provider in respect of improper conduct.

Necessary particulars or necessary further particulars of charge

6. (1) A respondent may at any reasonable time before the commencement of an enquiry, but not less than 5 days before the commencement, request the prosecutor in writing to furnish relevant particulars or further particulars of any aspect of the charge as contained in the charge sheet served on the respondent, that are reasonably necessary to enable the respondent to prepare for the enquiry.
- (2) The particulars must be served on the respondent as soon as it is reasonably possible and will form part of the record of the proceedings.
- (3) The presiding officer before whom an enquiry into a charge is pending may, at any time before evidence in respect of that charge has been led, direct that necessary particulars or further particulars duly requested in terms of sub-regulation (1) be delivered to the respondent if the respondent is entitled to the particulars and if they have not been delivered before, and may, if necessary, adjourn the proceedings in order that such particulars may be delivered.

Summons to respondent to attend enquiry

7. (1) The director may cause a respondent who has given notice to the director that the respondent intends to plead not guilty to the charge in question, or

from whom the director has received no reply to the relevant documentation contemplated in regulation 3(4) within the relevant period, where the director is satisfied that the documentation has been properly served, to be summoned under the signature of the director to appear at an enquiry, at a date, time and place referred to in the summons, and to produce at the enquiry any document so referred to which may be relevant to the enquiry, and which is, or presumably is, in possession of the respondent.

- (2) A summons referred to in sub-regulation (1) is in the form that the director determines from time to time.
- (3) The date for the enquiry contemplated in sub-regulation (1) may not be less than 10 days from the date of the serving of the summons, unless the respondent agrees to an earlier date.

Witnesses and related matters

8.
 - (1) The director may, under his or her signature, summon any person to appear at an enquiry, at a date, time and place referred to in the summons, to give evidence and to produce at the enquiry any document referred to in the summons, which may be relevant to the enquiry and which is, or presumably is, in the possession of the person in question.
 - (2) A summons referred to in sub-regulation (1) is in the form that the director determines from time to time.
 - (3) A respondent who wishes a person to be summoned to present evidence at an enquiry must, with the written permission of a presiding officer, draft, sign and serve a summons, accompanied by the written permission in question, substantially in the form that the director determines from time to time, on such person.
 - (4) The presiding officer may –
 - (a) direct any person present at an enquiry who, in the opinion of the presiding officer, may be able to give evidence relevant to the enquiry, to give such evidence and to produce any document which may be relevant to the enquiry, and which is or presumably is, in the possession of such person; and
 - (b) issue a summons in the form contemplated in sub-regulation (2) in respect of a person who is not present at an enquiry and who, in the opinion of the presiding officer, may be able to give evidence relevant to the enquiry, to attend the enquiry, give evidence at the enquiry, and to produce any document which may be relevant to the enquiry which is, or presumably is, in the possession of such person, at the enquiry.
 - (5) A directive of the presiding officer as referred to in sub-regulation (4)(a), has for all the purposes of these regulations the effect of a summons contemplated in sub-regulation (4)(b).
 - (6) The presiding officer may at the adjournment of an enquiry direct any person attending the enquiry as a witness and who has to be present when the enquiry resumes, to be present at the enquiry at a date, time and place

determined by the presiding officer, and such directive has for all the purposes of these regulations the effect of a summons contemplated in sub-regulation (4)(b).

- (7) Subject to the provisions of these regulations and the Code of Conduct, evidence by witnesses at an enquiry must be given orally under oath or affirmation, administered by the presiding officer.

Absence of respondent

9. (1) The presiding officer may, at the request of the prosecutor, determine that an enquiry or any part thereof may commence, be conducted or be continued in the absence of a respondent if the respondent was properly summoned to appear at the enquiry, and -
- (a) the respondent is represented by a legal practitioner who is duly authorised thereto by the respondent;
 - (b) it is reasonable to assume from the information submitted to the presiding officer, or from the known circumstances, that the respondent is exercising, or is probably exercising, his or her right as contemplated in regulation 3(6)(b) not to be present at the enquiry or any part thereof; or
 - (c) it is reasonable and fair in the circumstances, on the basis of information submitted to the presiding officer, to commence, conduct or continue with the enquiry in the absence of the respondent.
- (2) The presiding officer may at any time if the interests of justice so require, direct that an enquiry which has commenced, has been conducted or has continued in the absence of the respondent, be adjourned in order to give the respondent a reasonable opportunity to be present at the enquiry.

Tendering of plea and related procedures

10. (1) At the commencement of an enquiry the prosecutor must put the charge to the respondent and request the respondent to plead to the charge.
- (2) (a) If the respondent pleads guilty and the presiding officer is satisfied that the respondent is, in accordance with the plea, guilty of the charge, the presiding officer must find the respondent guilty.
- (b) No plea of guilty referred to in paragraph (a) may be accepted by the presiding officer from a representative of a security business unless the representative submits to the presiding officer a certified resolution or other adequate proof of the authorisation of the representative to plead guilty.
- (c) A respondent may at any stage of the proceedings alter a plea of not guilty to a plea of guilty, whereupon paragraph (a) will apply.
- (3) If the respondent tenders any plea other than a plea of guilty, or refuses or fails to tender a plea, or if the proceedings commence in the absence of a respondent as contemplated in regulation 9 and the respondent has not indicated that he or she offers a plea of guilty, the presiding officer must

record that the respondent has pleaded not guilty and the enquiry will proceed in accordance with these regulations.

- (4) (a) Where a respondent tenders a plea of not guilty, or where the presiding officer records a plea of not guilty as contemplated in sub-regulation (3), the presiding officer may ask the respondent whether the respondent wishes to make a statement indicating the basis of the defence.
- (b) Where the respondent does not make a statement contemplated in paragraph (a), or does so and it is not clear from the statement to what extent the respondent denies or admits the allegations in the charge sheet, the presiding officer may question the respondent in order to establish which allegations are in dispute.
- (c) The presiding officer may in his or her discretion put any question to the respondent in order to clarify any matter raised under paragraph (a) or (b) and any admission by the respondent in terms of this sub-regulation will serve as *prima facie* proof of any matter covered by such admission.

Application of procedural law and rules of evidence

11. (1) An enquiry is conducted, subject to the Act, these regulations and regulation 30 of the Code of Conduct, in accordance with the law of procedure and the rules of evidence, with the necessary changes, that apply to a criminal trial in a Magistrate's Court.
- (2) A respondent may, after the prosecutor has closed his or her case, apply to the presiding officer to be acquitted of the charge, and the presiding officer must acquit the respondent if the presiding officer is of the opinion that the prosecutor has not tendered evidence on which a reasonable person might find the respondent guilty.

Record of proceedings

12. The Authority must cause a complete record of the proceedings of an enquiry to be kept by the mechanical or other means deemed fit by it.

Service and return of service

13. (1) Any document whatsoever that may be served in terms of these regulations, with the exception of a summons contemplated in regulation 8(3), must be served by a staff member of the Authority or by a person designated in writing by the director for this purpose.
- (2) An affidavit whereby a return of the service of any document in terms of these regulations is affirmed, will, for the purposes of these regulations, be *prima facie* proof of the serving of the document in accordance with the contents of the return.

Adjournment of enquiry and costs of adjournment

14. (1) The presiding officer may at any time after the commencement of the proceedings of an enquiry, on request of a party or on his or her own initiative,

where a sound reason exists, direct that the enquiry be adjourned to a date, time and place mentioned in the directive.

- (2) The presiding officer may on good cause shown by a party, order the other party to pay the former party's wasted costs in respect of the items contemplated in regulation 16(4) or (5), as the case may be, as a result of the adjournment of the proceedings at any time and may, after considering any representations that the parties may submit, make an order as to the amount and manner of payment of such costs.
- (3) The presiding officer may direct that any application for costs to be awarded in terms of this regulation, must be dealt with in conjunction with an application contemplated in regulation 16(2).

Imposition of penalties, payment and collection of fines and other amounts

15. (1) After the conviction of a respondent of improper conduct in terms of any provision of these regulations, no penalty contemplated in the Code of Conduct may be imposed on the respondent, subject to regulation 9, before the respondent has been granted a fair opportunity to submit oral or written representations in connection therewith.
 - (2) (a) Where a fine has been imposed on a respondent and, where necessary, has been confirmed in terms of regulation 18, the fine is, subject to paragraph (b), due and payable to the Authority on demand, irrespective of the fact that the respondent has lodged an appeal as contemplated in section 30(1)(c) of the Act against the conviction or the fine in question.
 - (b) A respondent who has lodged an appeal is entitled to furnish an acceptable bank guarantee in respect of the payment of the fine pending the decision on the appeal.
 - (3) Where an appeal by a respondent contemplated in sub-regulation (2) who has paid a fine to the Authority is successful or partially successful, the Authority must refund the fine or part thereof, as the case may be, on demand by the respondent with interest for the relevant period calculated in accordance with the rate determined in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).
 - (4) The provisions of sub-regulations (2) and (3) apply, with the necessary changes, to any cost order made by the presiding officer in favour of the Authority.
 - (5) In any legal proceedings instituted by the Authority to recover any fine or other amount due to the Authority in terms of these regulations, a certificate purporting to have been signed by the head of finance and administration, whose appointment and authority need not be proved, will on mere submission to the court constitute sufficient proof against the debtor mentioned in the certificate for the purposes of provisional sentence or summary judgment, and constitute *prima facie* proof against the debtor mentioned in the certificate for any other purposes, as the case may be, of the existence and amount of the debt, that it is liquidated and that it has not been paid to the Authority.

Cost orders in regard to enquiries

16. (1) The presiding officer may -
- (a) order a respondent who has been found guilty of improper conduct to pay the Authority's costs as contemplated in this regulation if the respondent, a legal practitioner representing the respondent or a person assisting the respondent, acted in a frivolous or vexatious manner in the defence or in his or her conduct during the enquiry; or
 - (b) order the Authority to pay to a respondent who has been found not guilty of improper conduct at an enquiry, the costs of the respondent as contemplated in this regulation if any person acting on behalf of the Authority acted in a frivolous or vexatious manner in initiating or proceeding with the enquiry.
- (2) A party seeking a cost order contemplated in this regulation, must apply to the presiding officer as soon as possible after the findings of the presiding officer have been made known and present the necessary evidence, information and submissions to enable the presiding officer to make an appropriate order.
- (3) Costs contemplated in this regulation must be calculated on the appropriate tariffs and scales determined from time to time by the director, with the concurrence of the Council, for this purpose.
- (4) The Authority may be awarded costs only in respect of -
- (a) the professional services of the presiding officer;
 - (b) the professional services of the prosecutor if the prosecutor is not in the fulltime employment of the Authority;
 - (c) the costs of travel and accommodation in respect of the presiding officer, the prosecutor and any person who attended an enquiry at the request of the Authority and whose attendance at the enquiry was necessary; and
 - (d) the costs of renting premises and facilities for the purposes of the enquiry.
- (5) A respondent may be awarded costs only in respect of -
- (a) legal representation by a legal practitioner at the enquiry; and
 - (b) the costs of the respondent and necessary witnesses of the respondent in regard to travel and accommodation, incurred in connection with attending the enquiry.
- (6) The proceedings referred to in this regulation must be conducted in terms of such procedures and rules of evidence as the presiding officer may deem to be appropriate and fair in the circumstances and the presiding officer may only award costs to a party if that party has shown its entitlement thereto on a balance of probabilities.

- (7) An application for costs to be paid by a respondent to the Authority may be considered and decided upon in the absence of the respondent in the circumstances contemplated in regulation 9, with the necessary changes.
- (8) (a) After considering any evidence, information and submissions that the parties may present, the presiding officer may refuse to make an order or may make an order as to the amount and manner of payment of costs awarded to a party.
- (b) In determining the amount of costs to be awarded to a respondent in relation to a witness contemplated in sub-regulation (5)(b), the presiding officer must subtract from such costs any fees and allowances that have been or will be paid to the witness in terms of regulation 20(1).

Suspended penalties

- 17. (1) If a respondent has been found guilty at an enquiry and the presiding officer finds that the respondent has not complied with a condition for the suspension of a previous penalty as contemplated in the Code of Conduct or in the repealed regulations, the presiding officer may, after the respondent has been granted a fair opportunity to submit oral or written representations-
 - (a) put the suspended penalty or any part of the suspended penalty into operation; or
 - (b) further suspend the suspended penalty or any part of the suspended penalty on appropriate conditions.
- (2) (a) If the director has reason to believe that a security service provider has not complied with a condition for the suspension of a previous penalty as contemplated in the Code of Conduct or in the repealed regulations, the director may direct a prosecutor in writing to -
 - (i) cause a document with sufficient particulars of the alleged non-compliance with a condition for suspension of the penalty to be served on the security service provider;
 - (ii) notify the security service provider that the director intends to apply for the suspended penalty to be put into effect; and
 - (iii) request the security service provider to give written notice to the director within the period stated in the notice whether the security service provider intends to oppose the director's application or not and to submit, in the form of an affidavit, any evidence and representations that the security service provider wishes to submit.
- (b) The director may, through written notice served on the security service provider concerned, put into effect a suspended penalty or part thereof of a security service provider who has indicated to the director in terms of paragraph (a) that the security service provider does not intend to oppose the application of the director.

- (c) Where a security service provider has given notice to the director that the security service provider intends to oppose the application for putting into operation a suspended penalty, or from whom the director has received no reply within the relevant period, the director may -
 - (i) refer the matter to a presiding officer to consider and rule on the director's application; and
 - (ii) cause the security service provider to be summoned, for the purposes of considering and deciding on the director's application, under the signature of the director by means of a summons in the form determined by the director from time to time.
- (d) Subject to these regulations, the proceedings referred to in paragraph (c) must be conducted in terms of such procedures and rules of evidence as the presiding officer may deem to be appropriate and fair in the circumstances.
- (e) A request for the putting into operation of a suspended penalty contemplated in paragraph (c) may be considered in the absence of a respondent in the circumstances contemplated in regulation 9, with the necessary changes.
- (f) If the presiding officer, after considering all the evidence available to him or her, finds that a security service provider, on a balance of probabilities, has not complied with a condition for the suspension of a previous penalty, the presiding officer must -
 - (i) put the suspended penalty or any part of the suspended penalty into operation; or
 - (ii) further suspend the suspended penalty or any part of the suspended penalty on appropriate conditions.

Confirmation, review and substitution of findings, penalties and other orders

- 18. (1) After the conclusion of an enquiry, the presiding officer must submit the record of the proceedings to the director, whereupon the director may -
 - (a) where the respondent has been found guilty, confirm the conviction or set it aside;
 - (b) where the conviction is so confirmed, confirm the penalty imposed, or replace it with any lesser penalty contemplated in the Code of Conduct;
 - (c) where the conviction is so confirmed, replace the penalty imposed with any other appropriate penalty contemplated in the Code of Conduct, after the applicable rules of administrative justice have been complied with;
 - (d) confirm or set aside any order relating to costs or any other order made by the presiding officer; and

- (e) give any other order which is fair and just in the circumstances.
- (2) The respondent must be informed through a written notice signed by the director and served on the respondent, of the decision of the director in terms of sub-regulation (1).
- (3) The provisions of this regulation apply, with the necessary changes, to a decision contemplated in regulations 17(1) and 17(2)(f).
- (4) The provisions of sub-regulation (1) are not applicable to the proceedings or decisions contemplated in regulations 4 and 17(2)(b).

Penal provisions

19. (1) No person may -
- (a) wilfully hinder or impede the presiding officer or any other person, at any stage of the proceedings in connection with an enquiry, in the exercise of his or her powers or the carrying out of his or her functions or duties in terms of a provision of these regulations;
 - (b) threaten or insult the presiding officer or prosecutor in connection with an enquiry;
 - (c) wilfully furnish information or submit evidence at an enquiry which is false in any material respect;
 - (d) wilfully refuse or fail to act in terms of any lawful instruction or directive of the presiding officer in connection with an enquiry;
 - (e) subject to regulation 3(6)(b), after a summons has been served on him or her in terms of a provision of these regulations, without good cause refuse or fail to comply with the provisions of the summons;
 - (f) after he or she has in terms of these regulations been summoned to give evidence at an enquiry, refuse to be sworn in as a witness or to make an affirmation, to produce a document or, after he or she has been put under oath or affirmation, refuse to answer a lawful question put to him or her; or
 - (g) fail to pay a fine imposed in respect of improper conduct or to make any other payment as directed by the presiding officer in terms of these regulations, when the fine or other amount is due and payable by such person.
- (2) Any person who contravenes a provision of sub-regulation (1) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 24 months, or to both the fine and the imprisonment.

Witness fees

20. (1) Subject to sub-regulation (2), the director may out of the funds of the Authority pay to any person who attended an enquiry as a witness such fees and allowances as may from time to time be determined by the director with the concurrence of the Council.

- (2) The director may not pay any person any such fee or allowance, unless the presiding officer has certified that the person concerned has conducted himself or herself properly and satisfactorily as a witness or that, where the person was not called upon to actually give evidence, he or she at all relevant times held himself or herself available for that purpose or, where his or her inability to give evidence was due to circumstances beyond his or her control, that such circumstances prevented him or her from giving evidence.
- (3) Different fees or allowances in respect of different classes of witnesses or different circumstances or classes of enquiries may be determined under sub-regulation (1).

Delegation

- 21. (1) The director may, with the approval of the Council and upon such conditions as the Council may determine, in a written notice which contains sufficient particulars of the matters being delegated and of any conditions attached thereto, delegate any of the powers conferred upon the director by these regulations to a staff member of the Authority.
- (2) The director may at any time amend or revoke a delegation in terms of sub-regulation (1), or withdraw any decision made by the delegatee with regard to a delegated matter and decide the matter himself or herself, unless the decision by the delegatee has conferred a right on a third party.

Transitional provisions

- 22. (1) Any charge with reference to a security service provider already submitted to the Authority or the director at the date of the commencement of these regulations, must be dealt with in terms of these regulations.
- (2) Any enquiry pending at the date of the commencement of these regulations must continue in terms of these regulations unless the presiding officer for a sound reason directs that the enquiry, or any part thereof, must continue in terms of the repealed regulations.
- (3) Any person appointed or designated as a presiding officer or as a prosecutor, as the case may be, in terms of the repealed regulations, is deemed to have been appointed or designated in terms of regulation 2.

Attendance of persons at enquiry proceedings

- 23. Unless the presiding officer for a sound reason determines otherwise, only a person who performs a function at an enquiry in terms of the Act or these regulations or who is in the employ of the Authority, is allowed to be present at such enquiry.

Repeal of regulations

- 24. The Improper Conduct Enquiries Regulations, 2001 are hereby repealed.

Authoritative text

- 25. The provisions of the English text of these regulations will prevail in the case of a difference between the English text and any other text.

Short title and date of commencement

26. These regulations are called the Improper Conduct Enquiries Regulations, 2003 and come into operation on 1 March 2003.