

## **THE ROLE OF PSiRA AS THE REGULATOR AND NATIONAL BARGAINING COUNCILS IN THE PRIVATE SECURITY INDUSTRY**

Following on from several enquiries received from members of the private security industry operating in the guarding sector in respect of the registration of the National Bargaining Council for the Private Security Sector (NBCPSS) on 22 June 2018, the Authority believe it is necessary to clarify and address any concerns of possible overlapping of roles between PSiRA and the NBCPSS.

At the outset it must be highlighted that Bargaining Councils for those operating within the different security sectors are not new, and there is also a Bargaining Council for the Transport Freight Industry which determines, amongst other functions, minimum conditions of employment for the assets-in-transit sector, as well as a Bargaining Council for the Electrical Industry which is, *inter alia*, responsible for minimum conditions of employment in some areas within the electronic security sector.

The differences between PSiRA and Bargaining Councils are as follows:

<b>LEGAL STANDING</b>	
<b>PSiRA</b>	<b>Bargaining Councils (NBCPSS and Others)</b>
Section 199(4) of the Constitution provides that the security services must be structured and regulated and regulated by national legislation.	Bargaining Councils are voluntary centralised bargaining institutions established through the Minister of Labour and Employment within a statutory framework provided by the Labour Relations Act.
PSiRA is a statutory entity established in terms of section 2 of the Private Security Industry Regulation Act, 2001.	Bargaining Councils are entities established in terms of the Labour Relations Act, 1995
<b>SCOPE OF APPLICATION</b>	
<b>PSiRA</b>	<b>Bargaining Councils (NBCPSS and Others)</b>
The requirements of the PSIR Act and scope of regulation applies to all categories or classes of security services as defined in section 1 of the Act which includes those involved in the guarding	Bargaining Council Main Agreements are applicable to the sector for which collective bargaining is provided for

sector, assets -in-transit, reaction services, electronic security sector, security training providers, locksmiths, private investigators, etc. The Act applies to all South Africans, businesses, government departments, SOE's and state entities unless exempted in terms of section 2 of the PSira Act. According, PSiRA is the **sole primary regulator** of the Private Security Industry within the Republic of South Africa.

**OBJECTS AND FUNCTIONS**

**PSiRA**

The purpose of the PSiRA Act is apparent from the objects and functions of the PSiRA, which are listed in section 3 and 4 of the PSIR Act. These include, amongst others the following:

- promote a legitimate private security industry which acts in terms of the principles contained in the Constitution and other applicable law;
- ensure that all security service providers act in the public and national interest in the rendering of security services;
- promote a private security industry which is characterized by professionalism, transparency, accountability, equity and accessibility;
- promote and encourage trustworthiness of security service providers;
- determine and enforce minimum standards of occupational conduct in respect of security service providers;
- encourage and promote efficiency in and responsibility with regard to the rendering of security services;

**Bargaining Councils (NBCPSS and Others)**

The objects and functions of Bargaining Councils includes, amongst others, the following:

- To negotiate, conclude and enforce collective agreements on remuneration, benefits and other conditions of employment for its sector.
- To determine by collective agreement any matter which may not be an issue in dispute for the purposes of a strike or a lockout in the workplace;
- To prevent and resolve labour disputes;
- To perform dispute resolution functions;
- To develop proposals on policy and legislation that may affect the Council's industry and area and submit those proposals to NEDLAC or any other appropriate forum;
- To promote and support training and education schemes;
- To determine the rates of contribution and enforcement of the provisions of the Pension and Provident Funds where it relates to a particular sector in terms of its Main Agreement.

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| <ul style="list-style-type: none"> <li>• promote, maintain and protect the status and interests of the occupation of security service provider;</li> <li>• promote high standards in the training of security service providers and prospective security service providers;</li> <li>• promote the protection and enforcement of the rights of security officers and other employees in the private security industry;</li> <li>• 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;</li> <li>• protect the interests of the users of security services;</li> <li>• The registration of applicant security service providers and maintenance of a data base consisting of all registered security officers and security businesses.</li> <li>• As part of this process of registration, the screening of all persons wanting to enter into the private security industry both as employers and employees to ensure that they meet registration requirements.</li> <li>• The development and overseeing of quality assurance of training standards.</li> <li>• The development and publication of a Code of Conduct for Security Service Providers</li> <li>• The inspection of security service providers and the prosecution of security service providers who break the law.</li> </ul> | <ul style="list-style-type: none"> <li>• To strive to promote good relationships and endeavour to maintain industrial peace between employers and employees;</li> <li>• To administer agreements of the Council;</li> <li>• To ensure compliance by all employers and employees of any agreement negotiated by the parties;</li> <li>• To ensure the promotion of literacy and training programs and development for industry employees through the relevant SETA;</li> <li>• To establish regional structures of the Council;</li> <li>• To establish policies and guidelines that may be deemed necessary for the performance of the Council's discretionary functions;</li> <li>• To establish and administer pension, provident, medical aid, sick pay, holiday, unemployment and training schemes or funds or any similar schemes or funds for the benefit of one or more of the parties to the bargaining council or their members;</li> <li>• To confer on workplace forums additional matters for consultation;</li> <li>• To provide industry support services within the sector;</li> <li>• To extend the services and functions of the bargaining council to workers in the informal sector and home workers.</li> <li>• The inspections of businesses in the sector and verification of compliance with the conditions of employment as highlighted in the Main Agreement.</li> </ul> |
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<ul style="list-style-type: none"> <li>• Advising the Minister of Police on the making of regulations in terms of the Private Security Industry Regulation Act or any matter deemed necessary in respect of the Act.</li> </ul>	
<b>INSPECTION POWERS</b>	
<b>PSiRA</b>	<b>Bargaining Councils (NBCPSS and Others)</b>
Inspectors of PSiRA are appointed in terms of section 31 of the PSIR Act and their powers are covered in section 34 of the Act.	The Minister of Labour and Employment may at the request of a bargaining council appoint any person as the designated agent of that bargaining council to promote, monitor and enforce compliance with any collective agreement concluded in that bargaining council.

## **CONCLUSION**

In summary -

- PSiRA is a public entity mandated to regulate the occupation of the private security service provider as contemplated in Section 3 of the PSIR Act. In regulating the private security industry, it has to perform all functions as in Section 4 (a) to (q) of the PSIR Act for the benefit of the State, members of the public and the private security industry.
- The Bargaining Council's roles and functions are set out in their constitutions and it is confined to the regulation of fair labour practices as contained and agreed to in the bargaining agreements. The Bargaining Council may monitor and enforce compliance with its agreements in terms of section 33A of the Labour Relations Act or in terms of a collective agreement concluded by the council.
- Bargaining Councils do not have any overlapping mandate with the PSiRA mandate, as it has specific roles and functions that are limited to labour relations matters.

**END**