



INDUSTRY CIRCULAR NO 008/2021

TO: ALL CONSUMERS OF SECURITY SERVICES

FROM: OFFICE OF THE DIRECTOR

SUBJECT: CONSUMER OBLIGATIONS IN TERMS OF THE PRIVATE SECURITY INDUSTRY REGULATION ACT (ACT 56 OF 2001) – GOVERNMENT SECTOR AND CONSUMERS IN GENERAL

DATE: 14 JULY 2021

1. Introduction

The Government views the regulation of the vast private security industry as key national importance in order to achieve and maintain a legitimate security industry. Proper regulation is intended to ensure a legitimate, trustworthy, and competent private security industry which is optimally capable of contributing to the achievement and maintenance of sufficient levels of safety and security in our country.

The Private Security Industry Regulatory Authority (PSiRA) was established in terms of Section 2 of the Private Security Industry Regulation Act (56 of 2001) in 2002, hereinafter referred to as the "Act". The strategic mandate of PSiRA originates from the Act and the regulations issued in terms thereof. The primary objectives of PSiRA 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 in the interest of the private security industry itself. The Act also binds the State.

2. Legal provisions of the Act

Basic to the regulation of the private security industry is the requirement that all those who fall within the definition of "security service provider" and who propose to render a "security service", must comply with registration procedures and be registered before becoming active in the industry. This implies that the Act may set reasonable and appropriate registration requirements that must be satisfied by applicant security service providers. The basic object is to achieve a trustworthy, legitimate, and competent private security industry which has the effect that not all applicants will be able to secure legitimate entry to the industry and that the admission to or exclusion from the industry is based on proper grounds.

2.1 *Obligation to register.*

Section 20 of the Act requires all persons (business and security officers) rendering a security service to register with PSiRA.

2.2 *Security service providers who needs to register.*

The obligation to register includes the following categories or classes of security service providers as defined under the definition of "security service":

- Guarding sector
- Close protection officers;
- Persons giving advice on security services, including the use of security equipment;
- Response security;
- Assets in transit;
- Events / venue security;
- Manufacturers, importers, and distributors of monitoring devises;
- Private investigators;
- Security trainers;
- Installers of security equipment;
- Persons repairing / servicing security equipment;
- Monitoring signals of electronic security equipment;

- Control room operators;
- Locksmiths; and
- Persons managing, controlling, or supervising security services.

The security equipment referred to above includes, *inter alia*, the following:

- Alarm systems;
- Safes and/or vaults;
- Satellite tracking devices, CCTV, and other monitoring devices;
- Devices used for intrusion detection, access control, bomb detection, fire detection, metal detection and x-ray inspection; and
- Locksmith equipment

The registration requirement therefore applies with regard to those falling within the following categories:

- all-natural persons personally rendering a security service (whether as employee or otherwise) and includes in-house security;
- all form of businesses which render a security service; and
- natural persons involved in the executive management or governance of the said business.

2.3 *Offences and penalties*

Since the Act requires all persons rendering a security service to register with the Authority, the Act further provides for offences and penalties for non-compliance or contraventions. In terms of section 38 (3)(a), any person who contravenes or fails to comply with section 20(1) of the Act, is guilty of an offence. Section 38(3)(a) provides for the following sanctions on conviction:

(i) on a first conviction of a contravention, 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, is liable to a fine or to imprisonment for a period not exceeding ten years, or to both a fine and such imprisonment.

2.4 *Consumer obligations*

In terms of section 38(3)(g) of the Act, persons (clients or consumers of security services) who knowingly or without the exercise of reasonable care contracts for the rendering of services contrary to the Act, are also guilty of a criminal offence. The Act therefore places an explicit legal onus on consumers of private security services to only use and/or contract with legitimate and registered security service providers. A client of a security business must therefore make a reasonable enquiry as to the legitimacy of the security business, its officials and persons deployed by it to provide a security service, before making use of its services or to continue to use its services.

3. Mechanisms used by PSiRA to ensure compliance.

3.1 Monitoring and investigation

The Authority is empowered to inspect and investigate security service providers (including clients in terms of their obligations) to ensure compliance with the Act, its regulations and code of conduct. The Authority may institute improper conduct proceedings against a security service provider, on account of an allegation of improper conduct and/or initiate criminal action with the SAPS. Non-compliance to the code of conduct may lead to the imposition of fines, suspension, or withdrawal, depending on the merits of the case and severity of improper conduct. Further, the Authority may also suspend and withdraw the registration of a security service provider for failure to meet its financial obligations towards the Authority.

3.2 Verification

The registration status of a security service provider may change depending on the conduct by a security service provider. With that in mind, the Authority has put in place a verification measure known as a "letter of good standing". This certificate is valid for a period of 90 days and is issued by the Authority to a security service provider –

- Who is legally registered with the Authority and whose registration is valid;
- Whose account is up to date with payment obligations towards the Authority;
- Whose monthly returns are in order;
- Who complies with the regulations issued in terms of the Act;

- Whose directors are registered security service providers;
- Whose company's records are up to date with CIPC; and
- Whose physical address and infrastructure have been assessed for compliance.

4. Risk of non-compliance

Doing business with unregistered security providers or security service providers who are not in good standing with the Authority, poses a number of risks to the client and public in general.

5. Steps to ensure compliance.

With over 10 000 registered and active security businesses, it has become necessary for the Authority to collaborate with various key players in government as well as consumers in general. Of utmost importance is for the consumer of security services to put control mechanisms in place to ensure compliance with the Act. Therefore consumers, which includes government and the public sector at large, should play a role in not only meeting its statutory obligations in terms of section 38(3)(g) of the Act, but enforcing the provisions of the Act, particularly through its supply chain management processes.

In order to comply with the PSIR Act, consumers and Accounting Officers of National, Provincial and Local government departments and State-Owned Entities should implement the following:

5.1 Letters of good standing – all categories or classes of security service providers

Accounting Officers must be in possession of a letter of good standing issued by PSiRA prior to awarding a security service contract. Continuous verification of compliance must also be conducted to ensure that the registration of the security business is still valid with the Authority, after the security service provider has been appointed.

5.2 Registration and Training Compliance by Security Officers

In addition to the information that is provided in the “letter of good standing”, it is also strongly recommended that National, Provincial, Local, and other Government entities, request the following information from security businesses before concluding a contract with them or continue to use their security services:

- Confirmation of registration of all security officers deployed;
- Whether the security officers are employed or independent contractors or learners that are completing a NQF qualification or skills programme; and
- Confirmation of level of training of security officers deployed, including specialized training.

5.3 Contract Costing – guarding sector

Note must be taken of costing/pricing of security services. Government has a responsibility to ensure that employees receive their full wages and all other service benefits due to them in respect of any applicable legal provision, agreement, contract, or determination.

In respect of the guarding sector, the Minister of Labour approved the establishment of a Bargaining Council for the Security Sector, whose Main Agreement as published in Government Gazette establishes conditions of employment for employees in this sector. The Main Agreement determines, *inter alia*, minimum wages and other conditions of employment the security officer as an employee is entitled to. Minimum wages are generally also increased by the Bargaining Council in terms of an amendment each year and includes other conditions of employment such as nightshift allowances, cleaning allowances, etc. In this regard, PSiRA developed illustrative costing structures to guide security service providers and clients on statutory and other costs associated with the rendering of security services to assist security businesses in meeting their employer obligations toward employees insofar as conditions of employment is concerned.

5.4-Armed Security Services and Firearms in General

All clients must be mindful of the proliferation of firearms within the private security industry. In this regard, entities must not require tender applicants to demonstrate already having firearms as part of the compulsory tender specifications or the allocation of scores during the evaluation. Once the contract has been awarded, entities need to ensure that the security business has legally required all firearms to be used and that such firearms are legally licensed to the security business. This includes verification with SAPS Central Firearm Registry.

The security business must also demonstrate that the security officers issued with firearms by the business are competent in the use of the firearms and are issued with the required permits prescribed in terms of the Firearms Control Act, 2000. The details of the responsible person must also be made available.

5.5 In-house security

Entities and Accounting Officers need to ensure that in the case where in-house security officers are employed, that the entities need to be registered as employers of in-house security officers with PSiRA and that all security officers are legally registered, trained and their employment record reported to PSiRA. This includes security managers employed by the entities.

In additions, all entities need to ensure that annual amounts in respect of security officers are deducted on an annual basis and paid to PSiRA as required in terms of the regulations made in terms of the PSiR Act.

We trust that the above information has been of assistance to you and the Authority can rely on your co-operation to ensure compliance with the Private Security Industry Regulation Act, 2001. For further information or enquiries, kindly contact our offices or send an e-mail to info@psira.co.za.

Yours faithfully



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