

REPUBLIC OF SOUTH AFRICA

SECURITY INDUSTRY REGULATION BILL

(As introduced)

(MINISTER FOR SAFETY AND SECURITY)

[B 2000]

B I L L

To provide for the regulation of the security industry; for control over the practising of the occupation of security service provider; for that purpose to establish a regulatory authority; and 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 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 the practice of the occupation of security service provider may be regulated by law;

AND WHEREAS the Security Officers Amendment Act, 1997 (Act No. 104 of 1997), confers a duty on the Minister for Safety and Security to draft a new Bill on the occupation of security officer and related matters;

AND WHEREAS it is deemed necessary to enact legislation –

- aimed at the establishment of a new permanent Security Industry Regulatory Authority replacing the Security Officers' Interim Board;
- to provide for the governance of the new Authority by a council of persons who are independent of the private security industry;
- to provide principles for the proper regulation of the occupation of security service provider and of the security industry so as to ensure that the security industry does not threaten or harm the national interest, the public interest or the reputation of the industry;
- in order to promote and encourage professionalism in the security industry, the principles of democracy, transparency, equality, accessibility, the satisfaction of the needs of the community with regard to security services;
- to provide for the promulgation of an enforceable code of conduct for security service providers which prescribes the procedures for its enforcement, including differential penalties in respect of different categories of security service providers;

AND WHEREAS such legislation is aimed at achieving and maintaining a trustworthy and legitimate 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 by the Parliament of the Republic of South Africa, as follows:

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CHAPTER 1

DEFINITIONS AND INTERPRETATION

Definitions and interpretation

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

“Authority” means the Security Industry Regulatory Authority established by section 2(1);

“business trust” means a trust created for the purpose of profit-making achieved 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;

“close corporation” means a close corporation within the meaning of the Close Corporation Act, 1984 (Act No. 69 of 1984);

“chairperson” means the chairperson of the Council;

“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 councillor of the Council;

“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”, and “employed” and “employment” with regard to a security officer, have meanings corresponding to that of “employ”;

“inspector” means a person appointed as an inspector in terms of section 31;

“locksmith” means, subject to subsection (2), a person who, for the benefit of another person –

- (a) opens, closes or engages locks, including locking mechanisms operated by means of an electrical, electronic, magnetic or other process, by means other than keys, objects or procedures normally used;
- (b) repairs, replaces, rebuilds or adjusts locks or such other locking mechanisms or

- their components;
- (c) manufactures parts designed for use in locks or such other locking mechanisms;
or
 - (d) cuts or reproduces keys or objects used to open, close or engage locks or such other locking mechanisms,

but does not include a person who manufactures such locks, other locking mechanisms, keys or objects, only by repetitive methods;

“Minister” means the Minister for Safety and Security;

“National Commissioner” means the National Commissioner of the Service 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, but does not include the Security Services referred to in section 199 of the Constitution, the Department of Correctional Services and the Directorate of Special Operations;

“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;

“polygraphist” means, subject to subsection (2), a person who, in order to ascertain, confirm or examine, in a scientific manner, the truthfulness or otherwise of statements made by another person, uses skills and techniques in conjunction with any equipment or instrument designed or adapted for this purpose;

“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 and “prescribed” has a corresponding meaning;

“private investigator” means, subject to subsection (2), a person who, in a private capacity and for the benefit of another person –

- (a) investigates and furnishes information regarding the identity, actions, whereabouts, movements, affiliations, associations, habits, personal character, reputation, trustworthiness, loyalty, occupation, previous employment, integrity, creditworthiness, transactions, financial position, life-history or background of another person, without the consent or knowledge of such a person;
- (b) searches for someone who has or is alleged to have committed any crime, delict, breach of contract or other wrongful act, or for any evidence of such

- wrongdoing;
- (c) searches for missing persons, property or other assets, or investigates the cause or responsibility for accidents, injuries or damage; or
 - (d) conducts surveillance or counter-surveillance of a person;

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

“register” with regard to a security service provider, means the entering of the name of a security service provider in the register contemplated in section 23; and “registered” with regard to a security service provider has a corresponding meaning;

“regulation” means a regulation made in terms of section 35;

“security business” means, subject to subsection (2), any person who or which renders a security service for remuneration, reward, fee or benefit, except –

- (a) a person acting only as a security officer; and
- (b) a person using its employees to protect or safeguard merely its own property or other interests, or persons or property on the premises or under the control of such person;

“security equipment” means, subject to subsection (2) –

- (a) an alarm system;
- (b) a safe, vault and secured container;
- (c) satellite tracking, closed circuit television and other electronic monitoring device or surveillance equipment; and
- (d) intrusion detection, access control, bomb detection, fire detection, metal detection, x-ray inspection and telephone security equipment,

used for the protection or safeguarding of persons or property;

“security industry” means the industry consisting of security service providers;

“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, as regards one or more security services; or
- (ii) who in any manner 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; or
- (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 as regards one or more security services;

“security service” means, subject to subsection (2), 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, or on the use of security equipment or the services of a private investigator;
- (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 at 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 (No 127 of 1992);
- (f) performing the functions of a private investigator;
- (g) performing the functions of a polygraphist;
- (h) providing security training or instruction to a security service provider or prospective security service provider;
- (i) installing, servicing or repairing security equipment;
- (j) monitoring signals or transmissions from electronic security equipment;
- (k) performing the functions of a locksmith;
- (l) 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 (k) and (m) to another person;
- (m) managing, controlling or supervising the rendering of any of the services referred to in paragraphs (a) to (l);
- (n) creating the impression in any manner that one or more of the services in paragraphs (a) to (m) is rendered;

“security service provider” means a person who or which renders a security service for a remuneration, reward, fee or benefit and includes such a person who or which is not registered as required in terms of section 20(1);

“security training” 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 over the age of 16 years that resides or is employed at such address, and “served” has corresponding meaning;

“Service” means the South African Police Service, established by section 5 of the South

African Police Service Act, 1995 (Act No. 68 of 1995);

“the Act” or “this Act” includes the regulations and the code of conduct for security service providers.

- (2) (a) The Minister may, after consultation with the Authority and if the Minister believes it to be necessary for the achievement of the objects of this Act, by notice in the Gazette –
- (i) define for the purposes of this Act any service or activity, other than a service or activity contemplated in the definition of security service in subsection (1), and which in the opinion of the Minister is in the interest of the occupation of security service provider in the Republic, or is connected therewith, as a security service;
 - (ii) determine that any or all of the provisions of this Act, referred to in the notice, will apply to any person rendering any security service so defined;
 - (iii) define for the purposes of this Act any equipment, other than equipment contemplated in the definition of “security equipment” in subsection (1), and which, in the opinion of the Minister, is used to render a security service, as security equipment;
- (b) The Minister may, after consultation with the Authority and on grounds not prejudicing, in the opinion of the Minister, the achievement of the objects of this Act, and by notice in the Gazette, define any service, activity or practice that will not be regarded as a security service or the rendering of a security service, or any equipment that will not be regarded as security equipment or any person or entity that will not be regarded as a security service provider for the purposes of this Act.
- (c) The Minister may likewise amend or withdraw any notice contemplated in paragraph (a) and (b).
- (3) This Act must be interpreted in a manner that is consistent with the Constitution and gives effect to the objects of the Authority contemplated in section 3.

CHAPTER 2**SECURITY INDUSTRY REGULATORY AUTHORITY****Establishment of Security Industry Regulatory Authority**

2.(1) There is hereby established a juristic person to be known as the Security Industry Regulatory Authority.

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

Objects of Authority

3. The primary objects of the Authority are to provide for the regulation of the security industry and to exercise effective control over the practising of the occupation of security service provider in the national interest, the public interest and the interest of the security industry itself, and for that purpose, subject to this Act, to –

- (a) promote a legitimate 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 in the national interest in the rendering of security services;
- (c) promote a security industry which is characterized by professionalism, transparency, accountability, equity and accessibility;
- (d) promote stability of the 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 the adequate training of security service providers and prospective security service providers and ensure the performance of quality assurance and related regulatory functions in respect of such training;
- (k) encourage ownership and control of security businesses by persons historically disadvantaged through unfair discrimination;
- (l) encourage equal opportunity employment practices in the security industry;
- (m) promote the protection and enforcement of the rights of security officers and other employees in the 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 consumers of such services and of the community;
- (q) promote the empowerment and advancement of women in the security industry.

Functions, powers and duties of Authority

4. The Authority must endeavour to achieve its objects with the means at its disposal and may, subject to this Act, for the purpose of achieving its objects –

- (a) exercise such powers and perform such functions and duties as may be assigned to the Authority in terms of this Act and any other law;
- (b) enquire into and report to the Minister on any matter concerning the objects and functions 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 application thereof, and 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 of and investigation into the rendering of security services and practices of security service providers in order to ascertain whether there are deficiencies in this Act or any policy or rule made in terms thereof, and to discover any evasion, abuse or violation of the procedures or principles contained in this 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 registration as security service provider 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 necessary to develop and maintain standards and regulate practices in connection with the occupation of security service provider, persons pursuing or intending to pursue such occupation, activities or practices within the security industry, as are permitted in terms of this Act or any other applicable law;
- (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, and in connection with activities or practices in the security industry;
- (j) take the prescribed 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 it may deem expedient or necessary, as well as such steps as may be prescribed, in connection with the training of security service providers and prospective security service providers, ensuring the quality of training in respect of security service providers and prospective security service providers, and in particular in regard to –
 - (i) the receiving and consideration of applications for the accreditation of natural persons and training institutions to provide security training or instruction to security service providers or prospective security service providers;
 - (ii) the accreditation and withdrawal of the accreditation of training institutions;
 - (iii) the monitoring and auditing of the quality of training functions performed by the persons and institutions referred to in subparagraph (i);
 - (iv) the accreditation of bodies and persons to monitor and assess achievements or outcomes in respect of standards applicable to the training of security service providers and prospective security service providers;
 - (v) the participation in the activities of other bodies or persons entitled by law to set standards in respect of the training of security service providers or prospective security service providers, or bodies or persons entitled to formulate, implement or monitor skills development plans for the security industry;
 - (vi) the determination and accreditation of qualifications required by security service providers to perform particular types of security services; and
 - (vii) 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 computerized data base with information required for the proper performance of its functions;
- (n) examine and address the matter of provincial participation in the functions of the Authority, and establish and manage branch offices;
- (o) provide or disseminate information with the purpose of promoting and encouraging compliance with this Act and the code of conduct by security service providers;
- (p) provide information regarding security businesses to the users, prospective users or representatives of users of security services regarding the compliance of such providers with the provisions of this Act;
- (q) establish a guarantee fund for the security industry which is managed in the prescribed manner;
- (r) establish a complaints office to receive, process, refer or deal with complaints regarding the quality of service rendered by security service providers in the prescribed manner;

- (s) furnish information required by any department or 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;
- (v) invest money with financial institutions registered in terms of any law;
- (w) determine and charge fees or amounts 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) collect and administer in accordance with this Act taxes, fees and other monies imposed by or in terms of this Act;
- (y) acquire or hire movable or immovable property, or hypothecate, let, sell or otherwise dispose of movable or immovable property of the Authority;
- (z) accept donations with the approval of the Minister;
- (zA) raise finance from external sources;
- (zB) collect amounts on behalf of any relevant party;
- (zC) enter into contracts and conclude agreements, including insurance agreements;
- (zD) manage and safeguard its property, other assets and resources;
- (zE) determine and prescribe minimum internal control systems for security businesses, including but not limited to, accounting and reporting procedures and any other procedures or systems;
- (zF) co-operate with any person or body in the performance of an act which the Authority by law is permitted to perform;
- (zG) become a member of an association or organization which seeks to promote any matter in which the Authority has an interest;
- (zH) 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;
- (zI) establish relations with or enter into co-operation agreements with bodies or offices regulating the security industry in other countries, or bodies representing such regulators;
- (zJ) consult with any person or engage the services of consultants regarding any matter necessary for the performance of its functions on such terms and conditions as the Authority may determine;
- (zK) conduct or cause to be conducted hearings, investigations and inquiries with regard to any matter falling within the scope of its functions;
- (zL) generally, enter into any contract or perform any act that will in the opinion of the Authority contribute to the attainment of its objects.

Governance and functioning of Authority

5.(1) The Authority is governed and controlled in accordance with this Act by the Council contemplated in section 6.

(2) The Authority acts through the Council and all acts of the Council will in law be

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 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.

Establishment and constitution of Council and appointment of councillors

6. There is hereby established a Council which will consist of the following councillors:

- (a) (i) a chairperson;
 - (ii) a vice-chairperson; and
 - (iii) three additional councillors;
- appointed by the Minister, and in the case of the chairperson, by the Minister in consultation with Cabinet; and
- (b) the director who will serve on the Council by virtue of his or her office, but without any voting rights.

Disqualifications for appointment as councillor

7.(1) 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 security industry, which may in the opinion of the Minister prejudice his or her independence; or
- (ii) represents or is a member of a body representing the interests of employers, employees, security officers or any security business in the security industry;
- (c) in the opinion of the Minister is not a fit and proper person to hold office as a councillor;
- (d) is an unrehabilitated insolvent;
- (e) has not obtained such a security clearance by the National Intelligence Agency as may have been determined by the Minister;
- (f) does not satisfy any other relevant requirement which the Minister may set.

(2) A person must, prior to his or her appointment as a councillor, submit to the Minister a written statement in the format determined by the Minister, indicating his or her commitment to the objects of this Act and his or her fitness to be appointed as a councillor.

Term 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 one year, 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 if he or she continues to meet 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(1);
- (b) he or she has been absent from two 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 addressed to the Minister takes effect.

(4) A member of the Council may at any time be suspended or removed from office by the Minister if in the opinion of the Minister 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 officer or employee in the public service, may be paid from the funds of the Authority such allowances and remuneration as the Council may, with the concurrence of the Minister, determine.

(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 and responsibilities of Council

9. The Council –

- (a) must ensure that the objects of the Authority contemplated in section 3 are achieved and that the duties of the Authority are complied with; and
- (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, regarding –
 - (i) the good management of the affairs of the Council and the effective execution of its functions; and
 - (ii) any matter deemed necessary or expedient by the Council for the proper performance of the functions of the Authority.

Accountability of Council

10. 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 of the Authority and the activities of 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).
- (c) For the purposes of this section, the annual report contemplated in subparagraph (i) of paragraph (b) 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 in the opinion of the Authority 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 or duties in terms of this Act, the Minister may intervene by taking any appropriate steps to ensure proper fulfilment of that function or duty, including –

- (a) issuing a directive to the Council or the Authority, describing the extent of the failure and stating any steps required to remedy the situation; and
- (b) assuming responsibility for the relevant function or duty to the extent he or she may deem 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 that the Minister may consider prejudicial to the objects of the Authority.

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 at 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 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.
 - (c) If the chairperson fails to convene a special meeting within seven days after receiving the request, the members concerned may convene a special meeting.
- (3) The quorum for any meeting of the Council is a 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, in consultation with the Council, allow a deputy director contemplated in section 14(1) as well as any other 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; or
 - (b) a vacancy on the Council; or
 - (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:
- Provided that 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) A councillor may not attend, vote at, participate in or influence any meeting or decision of the Council if the councillor has an interest which may reasonably be seen to preclude the councillor from performing the relevant function in a fair, unbiased and proper manner.
- (b) The provisions of paragraph (a), apply, with the necessary changes, to the director and deputy directors contemplated in section 14(1).
- (9) When the chairperson is absent or is unable to perform functions as chairperson or whenever the office of chairperson is vacant, the vice-chairperson must act as chairperson during such absence or incapacity or until a chairperson is appointed, and if both chairperson and the vice-chairperson are absent or unable to perform the functions of the chairperson or whenever both the office of chairperson and the office of vice-chairperson are vacant, the Council must appoint any other member to act as chairperson during such absence or incapacity or until a chairperson or a 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 security industry to advise it regarding the regulation of the 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 and such directives of the Council as may be determined by 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 chief executive officer of the Authority, to be known 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 as the chief executive officer, 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 and duties of the Authority in terms of this Act are complied with;
- (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 proper performance and functioning of the Authority;
- (f) prepare the business plan of the Authority; and
- (g) perform any other function assigned to it by the Council.

(3) The director and deputy directors of the Authority may, with the approval of the Council, delegate any of their powers, and assign any of the functions or 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, powers, duties and operations in terms of this 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, represents 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 security industry and must successfully undergo a security clearance check conducted by the National Intelligence Agency as may be deemed necessary by the Council if this is relevant in respect of the work undertaken.

(5) All staff appointed in terms of this section may either be appointed as employees or in terms of a fixed contract.

(6) The terms and conditions of service of the Authority's staff, and their remuneration, allowances, subsidies and other service benefits will be as determined by the Council from time to time.

(7) The persons who, immediately before the commencement of this Act were appointed by the Security Officers' Interim Board established in terms of section 2(1) of the Security Officers Act, 1987 (Act No. 92 of 1987) and acting in terms of section 3(d) of that Act, will, subject to paragraph (c) of subsection (4), be deemed to be staff members of the Authority who have been appointed in terms of paragraph (a) of subsection (4).

Delegation and assignment of powers and functions by Council

15.(1) The Council may, subject to subsection (5), delegate any of the powers and assign any function or duty conferred or imposed on the Council by this Act, but excluding a power to make rules, to its chairperson, a committee of councillors, the director or a deputy director appointed in terms of this Act.

(2) The Council will not be divested of any power nor be relieved of any function or 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;
- (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 –

- (a) the delegation of any power of the Council; or
- (b) the assignment of any function or duty of the Council.

Funds of Authority

16.(1) The funds of the Authority consist of –

- (a) any amount received by or accrued to the Authority in terms of this Act;
- (b) any donation or contribution which the Authority may receive;
- (c) any finance raised from an external source by the Authority;
- (d) all money accrued to the Authority in respect of investments, deposits and cash balances to the credit of the Authority at a bank or financial institution;
- (e) any money received by or accrued to the Authority in terms of the disposal, letting or hiring out or making available of the property or facility of the Authority;
- (f) any money advanced to the Authority by the Minister, with the concurrence of the Minister of Finance; and
- (g) money from any other source received by or accrued to the Authority.

(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.

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 will be a year terminating on the last day of March.

CHAPTER 3**REGISTRATION AS SECURITY SERVICE PROVIDER****Obligation to register and exemptions**

20.(1) No person, except a Security Service contemplated in section 199 of the Constitution, the Department of Correctional Services and the Directorate of Special Operations, may, subject to subsection (3), in any manner render a security service for a remuneration, reward, fee or benefit, unless such person is registered as a security service provider in terms of this Act.

(2) A security business may only be registered as a security service provider –

- (a) if all the persons performing executive, controlling 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) (a) Any category or class of security service providers which was not legally obliged to be registered as security officers in terms of the Security Officers Act, 1987 (Act No. 92 of 1987) at the commencement of this Act, will only be required to be registered as contemplated in this section, on 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.

(4) Any contract, whether concluded before or after the commencement of this Act, which is inconsistent with a prohibition contained in subsections (1) or (2), will be invalid to the extent to which it is so inconsistent.

(5) The invalidity of a contract as contemplated in subsection (4) will not affect the applicability of any provision of this Act.

(6) 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 and renewal of 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, controlling or managing functions in respect of such security business;
 - (ii) of each director if the applicant is a company;
 - (iii) of each member if the applicant is a close corporation;
 - (iv) of each partner if the applicant is a partnership;
 - (v) of each trustee if the applicant is a business trust; and
 - (vi) of each administrator or person in control if the applicant is a foundation.
- (b) the application fee as determined by the Authority;
 - (c) any other document or certificate required in terms of this Act or determined by the Authority for submission 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, subject to section 22 and any other relevant provision of this Act, grant such application and register the applicant as a security service provider.
- (4) The Authority 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

- 22.(1) Any natural person applying for registration in terms of section 21(1), may be registered as a security service provider if the applicant –
- (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 as prescribed for registration as a security service provider;
 - (d) was not within a period of ten years immediately prior to the submission of the application to the Authority, found guilty of an offence specified in Schedule 1;
 - (e) was not within a period of five years immediately prior to the submission of the application to the Authority, found guilty of improper conduct in terms of this Act;
 - (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, in the opinion of the Authority, not mentally unstable;
 - (h) is not currently employed in the public service in circumstances where such registration will 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 in the opinion of the Authority meets the prescribed requirements in respect of the infrastructure and capacity necessary to render a security service of an adequate standard.

(3) The Authority may cause any inspection to be held which it deems necessary to establish whether an applicant meets the requirements contemplated in paragraph (b) of subsection (2), against payment by the applicant of an amount determined by the Authority for this purpose.

(4) The Authority may, if it deems it necessary for the achievements of the objects of the Authority, 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 Schedule 1 or who is being criminally prosecuted in respect of such an offence; or
- (b) was convicted of an offence specified in Schedule 1 longer than ten years immediately prior to the submission of the application for registration to the Authority.

(5) Irrespective of any legal 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) Notwithstanding the provisions of subsections (1) and (2), the Authority may on grounds not prejudicing in its opinion the purpose of this Act and the objects of the Authority, in any particular case effect registration as security service provider.

Register of security service providers

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

Registration and identification certificates

24. 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

25.(1) The Authority may suspend the registration of a security service provider –

- (a) pending an investigation by the Authority into alleged improper conduct by that security service provider or improper conduct proceedings concerning the security service provider, in terms of this Act; and

- (b) pending a criminal investigation by the State in respect of that security service provider into an offence referred to in Schedule 1, or the determination by the prosecuting authority or the finalisation of criminal proceedings in regard to such an 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 the security service provider is still bound by all the obligations of a registered security service provider provided for in this Act.
- (4) The Authority may 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 in a material respect untrue;
 - (b) if 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 Schedule 1 of this Act;
 - (ii) is found guilty of improper conduct in terms of this Act;
 - (iii) becomes subject to any of the disqualifications contemplated in paragraphs (a), (b), (g), (h) and (j) of section 22(1) or in section 22(5); or
 - (iv) does not comply with one or more of the requirements for registration referred to in section 22(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
 - (f) 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 will lapse if it is not renewed as contemplated in section 21(4).
- (6) Whenever the registration of a security service provider is suspended or withdrawn in terms of this Act, or if it lapses, the security service provider must forthwith return to the Authority the certificate of registration and identification, or the certificate of registration, as the case may be, issued in terms of section 24.
- (7) The Authority may on application by a security service provider suspend or withdraw the registration of the security service provider in the circumstances and on such conditions as may be prescribed.

Application for court order in respect of a security service provider

26.(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 that the activities or intended activities of the security service provider may 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) will be any division of the High Court of South Africa within whose area of jurisdiction the security service provider concerned is resident, employed or carrying on business.

Obligation to pay monthly amounts to Authority in respect of registration

27.(1) The Authority may from time to time determine the monthly amounts payable by registered security service providers to the Authority in respect of their registration.

(2) Different amounts may be determined by the Authority in respect of different categories or classes of security service providers.

(3) Every person registered as a security service provider must, subject to this section, on or before the end of every calendar month, pay to the Authority the applicable amount as determined by the Authority.

(4) The Council may prescribe the circumstances under and the conditions upon which the obligations on any security service provider in terms of this section may be suspended or postponed.

(5) If a security service provider fails to comply with the provisions of subsection (3), the registration of the security service provider concerned is suspended unless the Authority determines otherwise, whether generally or in a specific case.

(6) The effect of the suspension of registration in terms of subsection (5) will be the same as that provided for in section 25(3).

(7) If the relevant amount contemplated in subsection (3) is not paid within three months of the date of suspension of the registration of the security service provider concerned, the registration of the security service provider lapses, unless the Authority determines otherwise, whether generally or in a specific case.

- (8) (a) Every security business which employs a security officer, and every person using its own employees to protect or safeguard merely its own property or other interests, or persons or property on its premises or under its control, must deduct monthly, or cause to be deducted, an amount provided for in subsection (3) from the remuneration, reward or fee of the security officer and must pay it over or cause it to be paid over to the Authority within seven days after the end of the calendar month in respect of which payment must be made.

- (b) In the case of a security officer who has more than one employer, all such employers will, subject to subsection (4), be liable jointly and severally in respect of the deduction and payment of the amount contemplated in paragraph (a).

(9) A person who or which fails to pay or pay over an amount in terms of this section within the period allowed for such payment, must in addition to the interest which will be payable in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), pay to the Authority a penalty of ten percent on the amount and the interest accrued thereon.

(10) If the Authority is satisfied that the failure by a security service provider to pay or pay over any amount in terms of this section was not due to an intent to evade or postpone payment or otherwise to evade obligations in terms of this section, it may remit the whole or part of the penalty imposed by subsection (9).

(11) (a) Any amount due to the Authority in terms of this section constitutes a civil debt in favour of the Authority and may be recovered by the Authority in a court of competent jurisdiction.

- (b) In any proceedings contemplated in paragraph (a), a certificate purporting to have been signed by the director, whose authority needs not to be proved, will upon submission to the court constitute provisional proof of the fact of any indebtedness in terms of this section, as well as the amount thereof.

CHAPTER 4**PROPER CONDUCT AND APPEAL****Code of conduct**

28.(1) The Council must, subject to this section, develop and prescribe a code of conduct for security service providers which contains sufficient procedures 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 its own employees to protect or safeguard merely its own property or other interests, or persons or property on its premises or under its 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 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 realise the objects of the Authority; and

(iii) compliance by security service providers with their duties towards the State, the Authority, consumers of security services, the public and the security industry in general; and

(b) to ensure compliance by security businesses which employ a security officer and every person using its own employees to protect or safeguard merely its own property or other interests, or persons or property on its premises or under its control, with standards aimed at preventing exploitation or abuse of employees in the security industry.

(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.

(5) The code of conduct may provide for different penalties in respect of different categories or classes of security service providers.

(6) (a) The code of conduct drawn up in terms of subsection (1) must first be published by the Authority in the Gazette with a notice intimating that the Authority intends to issue such a code and inviting interested persons to submit to the Authority 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 Authority after the expiry of that period decides on any alterations of the proposed code, as a result of any objections or representations submitted to it, it will not be necessary to publish such alterations for further comment.

(b) The provisions of paragraph (a) will apply with regard to any amendments to or substitution 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. Improper conduct proceedings may, in the prescribed manner, be instituted by the Authority against a security service provider on account of an allegation of improper conduct, whether such improper conduct was allegedly committed within or outside the borders of the Republic.

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 by the Authority of his or her registration as a security service provider; 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), will be appointed by the Minister and consists of –
- (a) a person with no fewer than five years' experience as an attorney, advocate or magistrate, who will be the chairperson; and
 - (b) two other persons deemed 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 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 will be as 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 will be as 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 judgment of the appeal committee.
- (7) A member of the appeal committee who is not in the full-time service of the State may be paid such remuneration and allowance as the Minister may from time to time determine with the concurrence of the Minister of State Expenditure.

CHAPTER 5**MONITORING AND INVESTIGATION****Appointment of inspectors**

- 31.(1) (a) The Council may appoint inspectors as staff members of the Authority in terms of this Act.
- (b) The provisions of section 14 will 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, subject to the direction and control of the director.
- (3) The director must furnish every inspector with a certificate to the effect that he or she has been so appointed and is deemed by virtue of section 33(3) of this Act to be a peace officer.
- (4) An inspector must on request of any interested person, produce the certificate when exercising a function in terms of this Act.
- (5) If the director deems it necessary, the director may 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) will, for the purpose of an inspection, have the same powers and duties as an inspector contemplated in subsection (1) and the provisions of subsections (3) and (4) will apply, with 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.

Inspection of security service providers

- 32.(1) The director may at any time instruct an inspector to carry out an inspection of the affairs, or any part of the affairs, of a security service provider, of any other person who or which 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 Act must, on completion of the inspection compile a report of the inspection, provide a copy thereof to the security service provider concerned and submit the original to the director.

Powers of inspectors relating to security service providers

- 33.(1) In order to carry out an inspection of the affairs of a security service provider or another person contemplated in section 32, 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 a person employing a security officer;
- (ii) which the director has reason to believe is occupied by or used in connection with the rendering of a security service by a security service provider or a person employing a security officer;
 - (iii) where or from where a security service is rendered or the director has reason to believe such a service is rendered;
- (b) use any applicable equipment 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;
- (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 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 by the security service provider concerned;
 - (ii) to produce to the inspector all or any records or documentation relating to the activities of the security service provider 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 and other employees of the security service provider concerned, as well as a list with the names and identity numbers of all persons who are officials of the security service provider 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 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 fire-arm 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 and such security officers, officials and employees;
 - (hh) documentation relating to deductions and payment of the amounts contemplated in section 27; and
 - (ii) documentation pertaining to any contract between the security service provider and a client;
- (e) search the premises for any records or documentary information contemplated in paragraph (d);
 - (f) open any 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 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 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 by the inspector of a receipt, seize the 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 concerned, or extracts from any such record or document, under circumstances necessary to protect the integrity of the item concerned.

(3) An inspector will in respect of any provision of this or any other law applicable to security service providers be 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 50 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(4) A member of the Service or an inspector may demand the production of the registration and identification certificate contemplated in section 24, 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.

Powers of inspectors relating to other persons

34.(1) In order to carry out an inspection of the affairs of a security service provider or another person contemplated in section 32, an inspector may –

- (a) question any person if the inspector has reason to believe that such person may be able to provide information relating to the affairs of the security service provider, and make and keep a record of such questioning or cause such a record to be made and kept;
- (b) on the authority of a warrant issued in terms of subsection (2), at any time, without prior notice –
 - (i) enter any premises and require the production of any record or document relating to the affairs of the security service provider;
 - (ii) enter and search any premises for any record or document relating to the affairs of the security service provider;
 - (iii) open any strongroom, safe or other container which the inspector suspects contains any document relating to affairs of the security service provider;
 - (iv) examine, make extracts from and copy any record or document relating to the affairs of the security service provider, or, against the issue of a receipt seize such record or document for such purpose;
 - (v) against the issue of a receipt, seize any record or document relating to the affairs of the security service provider, which in the opinion of the inspector, may afford evidence of improper conduct in terms of this Act;
 - (vi) use any computer system or equipment on the premises which the inspector suspects to contain information on the affairs of the security service provider, or require reasonable assistance from any person on the premises to use that computer system to –
 - (aa) access any data contained in or available to that computer system;
 - (bb) reproduce any record from that data; and
 - (cc) seize any output from that computer for examination and copying:

Provided that an inspector may proceed without a warrant if the person in control or apparent control of any premises consents to the actions contemplated in this paragraph.

- (2) (a) A warrant contemplated in paragraph (b) of subsection (1) may be issued, on application by an inspector, by a judge, magistrate or justice of the peace who has jurisdiction in the area where the premises in question is located.
 - (b) Such a warrant may only be issued if it appears from information under oath that there is reason to believe that a record or document, whether in electronic form or not, relating to the affairs of the security service provider being inspected, is kept at or on the premises concerned.
 - (c) The provisions of section 33(2) will apply, with the necessary changes, in respect of a record or document seized in terms of this section.
- (3) An inspector may, without a warrant enter upon and search any premises after having identified himself or herself and exercise any of the powers contemplated in subsection (1), if the inspector on reasonable grounds believes that –
- (a) the required warrant will be issued in terms of this section if the inspector were to apply for the warrant; and

- (b) the delay which would ensue by first obtaining the warrant would defeat the object or purpose of the exercise of the powers and functions contemplated in subsection (1).

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 by security service providers of security training;
- (e) ensuring the quality of training as contemplated in paragraph (k) of section 4, 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) prohibiting the supply or wearing by a security service provider of any uniform, distinctive badge or button which resembles or may be confused with that of any State service or force;
- (h)
 - (i) the institution and conduct of improper conduct proceedings or any other inquiry in terms of this Act;
 - (ii) the appointment, powers and functions of presiding officers and other officials in respect of such proceedings or any other inquiry in terms of this Act;
 - (iii) conduct of security service providers that will constitute improper conduct;
 - (iv) the provisions, if any, of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and any other legislation regarding procedure or evidence, that will apply, with the necessary changes, to improper conduct proceedings or any other inquiry in terms of this Act;
 - (v) the attendance by a security service provider or any witness, of improper conduct proceedings or any other inquiry in terms of this Act;
 - (vi) the circumstances under which improper conduct proceedings may be conducted or proceeded with in the absence of the security service provider accused of improper conduct;
 - (vii) the hearing and submission of evidence at improper conduct proceedings or any other inquiry in terms of this Act;
 - (viii) cost orders with regard to improper conduct proceedings;
 - (ix) the payment and collection of fines imposed in respect of improper conduct;
 - (x) competent findings, punishment and other appropriate orders in respect of improper conduct;
 - (xi) the confirmation, review or substitution of any finding, punishment or other order contemplated in subparagraph (x), or the setting aside

thereof, by the Authority;

- (i) the establishment, management and functioning of a guarantee fund for the security industry;
- (j) the establishment and operation of a complaints office as contemplated in paragraph (r) of section 4;
- (k) the compulsory keeping of records and documents concerning the management, administration and other matters relating to the rendering of a security service;
- (l) the format in which such records and documents must be kept and the premises on which such records and documents must be kept available;
- (m) the duty on security service providers to provide the Authority with information;
- (n) the issuing, possession and use of fire-arms and other weapons by security service providers;
- (o) the safe-keeping and disposal of records, documents and other objects seized in terms of this Act;
- (p) the training, registration, use, treatment, transportation and general care of working animals by security service providers in or in connection with rendering a security service, as well as the registration of training centres with regard thereto;
- (q) the duty on security businesses to furnish certain information to consumers or prospective consumers of security services;
- (r) the advertising of the services of security services providers and of security equipment;
- (s) the use of certain types of equipment by security service providers in the rendering of a security service;
- (t) the manufacture, importation, selling, distribution and possession of security equipment;
- (u) generally, any matter which the Council considers necessary or expedient for the attainment or better attainment of the objects of this Act or the performance of the functions or duties 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 twelve 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 or comply with its duties in terms of this 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 or execution of any duty 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;
- (b) to the extent that this Act or any other applicable law authorises 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 under this Act.

Offences and penalties

38.(1) A security business or any other person responsible to make deductions in terms of section 27(8), who or which does not deduct or cause to be deducted an amount as contemplated in paragraph (a) of section 27(8), or who or which does not pay such an amount over or cause it to be paid over to the Authority as contemplated in paragraph (a) of section 27(8), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) Any person who –

- (a) falsely represents himself or herself to be an inspector;
- (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;
- (c) refuses or fails to comply to the best of his or her ability with any request of an inspector or member of the Service in terms of section 33 or section 34;
- (d) without lawful excuse refuses or fails to answer a question put by an inspector or a member of the Service;
- (e) 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 two years, or to both such fine and such imprisonment.

(3) Any person who –

- (a) contravenes or fails to comply with section 20(1) or section 25(3);
- (b) contravenes or fails to comply with section 25(6) or 37;
- (c) in any application, inquiry, improper conduct proceedings, appeal or other proceedings in terms of this 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;
- (e) advertises security services to be rendered by a person who or which is not registered in terms of this Act or whose registration is suspended in terms of this 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;
 - (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 their functions or execution of their duties in terms of this Act;
 - (i) commits an act which is calculated to hinder, impede or obstruct any investigation in terms of this Act into alleged improper conduct by a security officer or any improper conduct proceedings;
 - (j) knowingly publishes false or misleading information regarding the Authority or a person performing functions in terms of this Act;
- is guilty of an offence and –
- (i) on a first conviction of a contravention referred to in paragraph (a), liable to a fine or to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment;
 - (ii) on a second or subsequent conviction of a contravention referred to in paragraph (a), liable to a fine or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment;
 - (iii) on a conviction of a contravention referred to in paragraph (b), (c), (d), (e), (f), (g), (h), (i) or (j), liable to a fine or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(4) Any person who contravenes or fails to comply with any other provision of this Act, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months, or to both such 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, will be deemed to have been committed in the Republic.

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

- (a) at the place where it actually was 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, will not be liable in respect of the bona fide exercise of a power or function in terms of or by virtue of a provision of this Act, provided that such exercise 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, save a 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 will prevent the exercise of such power by the Minister.

Act binds the State

42. Subject to any provisions to the contrary, this Act binds the State.

Amendment and repeal of laws

43. Subject to the transitional provisions of section 44, the Security Officers Act, 1987 (Act No. 92 of 1987) as amended, is hereby repealed.

Transitional provisions

44. (1) In this section –

- (a) “repealed legislation” means the Security Officers Act, 1987 (Act No. 92 of 1987) as amended;
- (b) “Board” means the Security Officers’ Interim Board established by section 2 of the repealed legislation.

(2) With effect from the commencement of this Act –

- (a) all assets, rights, obligations, duties and liabilities of the Board will vest in the Authority and will be 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 the repealed legislation will be deemed to have been done or taken, by the Authority, as the case may be, in terms of the 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, will remain 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 will be construed as a

- reference to the Authority;
- (e) all proceedings which were pending before a court between the Board and any person will 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 or improper conduct proceedings instituted in terms of the repealed legislation and which are still pending 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 deemed necessary in order to give effect to the provisions of paragraph (a) of subsection (2) and no office fee or other charge will be payable in respect of any such entry or endorsement.

Short title and commencement

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

Schedule 1

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 fire-arm or any form of intentional violence.
Kidnapping.
Assault with the intention to cause serious bodily harm.
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.
Any offence in terms of the Explosives Act, 1956.
Any offence in terms of the Regulation of Foreign Military Assistance Act, 1998.
Any offence in terms of legislation pertaining to the control over the possession and use of fire-arms and ammunition.
Any offence in terms of the Interception and Monitoring Prohibition Act, 1992.
Any offence in terms of the Intelligence Services Act, 1994.
Any offence in terms of the Protection of Information Act, 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 punishment wherefor may be 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.

NOT INCLUDED IN BILL !!!!

the rest of this text is left undeleted solely for future reference!!!

SCHEDULE 2

**AREA OF OPERATION AND POWERS OF INSPECTORS AS PEACE OFFICERS
(SECTION 32(3) OF ACT)**

AREA	OFFENCES	POWERS
The national territory of the Republic	Any offence under the Security Industry Regulation Act, 2001 (Act No *** of 2001), or any other law relating to security service providers	The powers contemplated in sections 40, 41, 44, 45, 46, 47, 48, 49 and 50 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

SCHEDULE 3

LAWS REPEALED

REGULATIONS

- (1) A security service provider is guilty of improper conduct if the security service provider –
 - (a) contravenes or fails to comply with a provision of the code of conduct contemplated in section 27 or any other provision in this Act; or
 - (b) commits an offence specified in Schedule 1.
- (2) The Authority must appoint a panel of suitably qualified persons from whom a person may be designated by the Authority to act as a presiding officer in an enquiry into an allegation of improper conduct by a security service provider.
- (3) The Authority may cause an allegation of improper conduct by a security service provider to be enquired into in the prescribed manner by a presiding officer designated under subsection (2).
- (4) An enquiry into alleged improper conduct by a security service provider must, subject to subsection (5) and paragraph (a) of subsection (6), be conducted in the presence of the security service provider concerned.
- (5) An enquiry under this section may be conducted in the absence of such security service provider who or which –
 - (a) fails to attend the enquiry after the charge sheet as prescribed has been served on such security service provider;
 - (b) consents to the analysis or part thereof being held in the absence of the security service provider; or
 - (c) fails to attend any part of an enquiry without leave from the presiding officer after the enquiry has commenced.
- (6) At an enquiry in terms of subsection (3) the security service provider in question has the right to –
 - (a) be assisted or represented by another person;
 - (b) present evidence and submissions;
 - (c) cross-examine any person called in support of the charge of improper conduct and to dispute evidence;
 - (d) inspect any document produced as evidence.
- (7) If the presiding officer conducting the enquiry, finds the security service provider guilty of improper conduct, the presiding officer may, subject to subsection (9) –
 - (a) suspend the registration of the security service provider or withdraw such registration;
 - (b) impose upon the security service provider a fine not exceeding the maximum applicable fine in terms of the code of conduct, which fine must be paid to the Authority; or
 - (c) reprimand or warn the security service provider.
- (8) Payment of a fine imposed under subsection (7)(b) may be suspended conditionally and a suspended fine may be put in operation in the prescribed manner.
- (9) A presiding officer conducting any such enquiry must as soon as reasonably possible after its conclusion submit the prescribed record of the proceedings to the Authority, whereupon the Authority –
 - (a) may, where the security service provider concerned has been found guilty, confirm the conviction, or set it aside;

- (b) may, where the conviction is so confirmed, confirm the punishment imposed or replace it with any less onerous punishment contemplated in subsection (7); and
- (c) must serve a copy of its final decision on the security service provider concerned.

(10) A security service provider will not be indemnified from enquiry proceedings or a conviction in terms of this section, notwithstanding the fact that the proceedings may concern acts or omissions that formed the subject of a charge in respect of which the security service provider was acquitted or convicted by a court of law, or that such acts or omissions may form the subject of a charge in a court of law.

Offences

- (g) [commits any act which would constitute contempt of court in relation to enquiry proceedings];
willfully hinders or impedes the presiding officer or any other person at any stage of the enquiry proceedings in connection with an enquiry as contemplated under section ***, in the exercise of his or her powers or the carrying out of his or her functions in terms of this Act;
fails, without legal justification, to pay a fine imposed for improper conduct in terms of section 28(7) when such fine is due and payable;
fails, without legal justification, to comply with any order made by a presiding officer under section ***;