

General News

Challenges facing the private security industry - is there light at the end of the tunnel?

JOHANNESBURG - August 23, 2018 – The South African private security sector is facing more challenges than ever before. This was according to Tony Botes, national administrator, Security Association of South Africa (SASA), during his address at the Securex 2018 event, Africa’s leading security and fire trade exhibition, which took place recently at Gallagher Convention Centre in Johannesburg.

The demise of the independent contractor

Botes identified the first major issue as independent contractors referring to themselves as ‘self-employed security officers’. “PSiRA (the Private Security Industry Regulatory Authority), the Department of Labour, the Private Security Sector Provident Fund and SASA, recently opposed an interim *ex-parte* order granted in the high court in terms of which a security officer and a security service provider were given the right for the employee to choose whether to be an employee or an independent contractor.

“After more than a year, the case was settled in the High Court in three hours, where the request was dismissed out of hand, with costs awarded against the applicant, sounding a death knell for independent contractors within the private

security industry, who have now all but disappeared, and a great victory within the compliance war.”

Debating co-op and learnership compliance

The next compliance issue is the abuse of the Co-operatives Act, Botes stated.

“There are a number of security service providers who continue to abuse the letter and spirit of the laws governing co-operatives. The Registrar of Co-operatives of the Department of Trade and Industry (the DTI) does not have an investigative or enforcement division and, as such, has relied on the Department of Labour (DoL) to conduct an investigation into this practice and the abuses identified, but no known action has, to our knowledge, been instituted by the DoL.

“In brief, co-ops are registered and the members, all technically part owners thereof, are ‘rented out’ as contract security officers. Not being employees, as per the Basic Conditions of Employment Act (BCEA) or Sectoral Determination 6 (SD6), there is no effective legislation in place to protect the levels of remuneration or employment benefits of such members. This has resulted in widespread and gross exploitation.”

In fact, according to Botes, out of more than ten co-operative schemes investigated by the DoL, only two were found to be operating within the scope or spirit of the relevant legislation.

Learnerships are another area of concern, he said, with the demise of the use of independent contractors leading to a number of security service providers

resorting to abusing Sectoral Determination 5, which deals specifically with learners and provides for only a minimum stipend, far below the remuneration set out in SD6.

“These ‘learners’ are, more often than not, deployed to perform security services while unsupervised, with the consumer being blissfully unaware of their lack of qualification. Not only this, but the greatest majority of these “abused” learnerships are not registered with the Safety and Security Sector Education and Training Authority (SASSETA), and we often find that the ‘employer’ requires the learner to attend theoretical training on rest days, in most cases without being paid, while also being expected to repay the training costs to the employer, up to R1,300 per month over three years.

“Exploited security officers are, more often than not, hungry (as a result of being financially abused) and exhausted (because of working hours far in excess of statutory limits). As such, it is impossible for them to render the level of security service that consumers demand and expect from their contracted service providers.”

Botes maintained that the role of the consumer is critical here, as many people only look at the savings on their security spend, without considering the fact that their physical security is being seriously compromised in the process. “It is simply not possible to expect a professional security service when it is being provided at sub-standard rates.”

Insourcing versus outsourcing

“People are also generally not aware of the serious threat to the private security industry posed by ‘insourcing’ versus ‘outsourcing’. Consumers of insourced services may not know that they may not apply the conditions (remuneration, conditions of employment and employee benefits) as set out by SD6 for insourced staff, as this applies only to employers and employees in the private security sector. These institutions are instead legally obliged to apply the conditions of the BCEA and their employees are not entitled to the many BCEA variations that have been incorporated in SD6 after many years of intense negotiations. These include the right to work a 48-hour week, excluding Sundays and public holidays, and also permit 12-hour shifts, compared to a maximum of nine hours per day and 45 hours per week in terms of the BCEA.

“Furthermore, insourced security officers will, if their employers apply the provisions of the BCEA, now only enjoy one rest day per week, instead of three, as is the case with outsourced security officers, resulting in not only higher transport costs, but also fatigue and the related risks.”

Overtime, in terms of the BCEA, is limited to 10 hours per week, whereas SD6 permits this to be increased to 12 hours in terms of a written agreement. Users of insourced services face further complications, having to follow labour relations processes to retrench or unsuitable security offices, with the related risk and cost implications. All of these costs and risks outweigh any perceived benefits of insourcing, explained Botes.

Non-participation regarding the PSSPF

The industry is also characterised by challenges around the Private Security Sector Provident Fund (PSSPF), with a poor level of compliance in respect of the majority of employers, ranging from outright non-participation to qw deductions being made from the officer's salary without payment to the fund, or partial payment only.

“Thanks to amendments made to Section 13A of the Pension Funds Act, transgressors (both the business and its directors, jointly and severally) now face fines of up to R10 million and/or imprisonment of up to 10 years if found guilty. In addition, charges of theft and fraud can be brought against the company directors by their employee, in addition to civil recovery processes being instituted by the Fund.”

The way ahead

So what is the way forward? Botes said that the private security industry, via the existing informal National Bargaining Forum, has applied for the registration of a National Bargaining Council for the Private Security Sector (NBCPSS), which has since been registered, but not yet formally established.

The council is set to take over a number of statutory duties and responsibilities currently being handled by other bodies, such as enforcing compliance in respect of its main agreement, amongst all security service providers, which document will replace SD6, up to now being handled jointly by the DoL and PSIRA. It will also conciliate, mediate and arbitrate all labour-related disputes, up to now the sole mandate of the CCMA.

In addition, the NBCPSS will be charged with collecting monthly levies from both employers and employees and negotiating a new main agreement periodically.

“We strongly believe that the NBCPSS is the only vehicle to ensure the long-term stability of the private security sector, as well as to help reach and maintain a high level of professionalism and compliance,” he concluded.

Securex is Africa’s leading security and fire trade exhibition. The 2018 show was the largest to date, featuring almost 200 exhibiting companies, of which close to 50 were new on the show, and drawing in more than 7,000 attendees from 46 different countries.

“Our free-to-attend Securex seminar theatre is one of the biggest draw cards of the show,” explains Sven Smit, Portfolio Director at Specialised Exhibitions Montgomery. “The 2018 show featured 20 new content sessions, including presentations from associations other than SASA, such as SAIDSA, PSiRA, and SAIS, as well as a number of respected organisations including Deloitte & Touche, the Institute for Security Studies, Hikvision South Africa and more.”

Co-located with A-OSH EXPO, Africa’s leading occupational safety and health trade exhibition, the 26th Securex show will take place at Gallagher Convention Centre between 14 and 16 May next year.

For more information on the 2019 show, please visit www.securex.co.za.

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