

REPUBLIC OF SOUTH AFRICA

PRIVATE SECURITY INDUSTRY REGULATION AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75))*  
*(The English text is the official text of the Bill)*

**(MINISTER OF POLICE)**

[B – 2012]

**GENERAL EXPLANATORY NOTE:**

[            ]        Words in bold type square brackets indicate omission from existing enactments.

\_\_\_\_\_            Words underlined with a solid line indicate insertions in existing enactments.

**BILL**

**To amend the Private Security Industry Regulation Act, 2001 so as amend certain definitions; to provide for additional powers of the Minister; to provide for the Authority to promote crime prevention partnerships with organs of state; to provide for the finances and accountability of the Authority; to provide for the appointment of the director of the Authority; to provide for the regulation of ownership and control of a business operating as a security service provider; to regulate security services rendered outside the Republic; to empower the Minister to make regulations for the transportation of cash and other valuables; and to provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 56 of 2001**

1.        Section 1 of the Private Security Industry Regulation Act, 2001, (hereinafter referred to as "the principal Act"), is hereby amended by—

(a)       the substitution for the definition of "**Levies Act**;" of the following definition:

      " '**Levies Act**' means the Private Security Industry Levies Act, 2002 (Act No. 23 of 2002)";

(b) the substitution for the definition of "**locksmith**" of the following definition:

" **'locksmith'** means a person who, for the benefit of another person, engages in any activity or business which is related to **[the]**—

(a) designing and managing master key systems;

(b) installing, maintaining, repairing and changing the combinations of safes, vaults and safety deposit boxes;

(c) maintaining key code records;

(d) cutting keys otherwise than by duplicating existing keys; or

(e) opening, closing or engaging of locking mechanisms of any nature, by means of a specialised device in any manner;";

(c) the substitution for the definition of "**Minister**" of the following definition:

" **'Minister'** means the Minister **[for Safety and Security]** of Police";

(d) the insertion after the definition of "**National Commissioner**" of the following definition:

" **'National Treasury'** means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999)";

(e) by the substitution for the definition of "organ of state" of the following definition:

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

(f) the insertion after the definition of "**property**" of the following definition:

" **'Public Finance Management Act'** means the Public Finance Management Act, 1999 (Act No. 1 of 1999)";

(g) the substitution for paragraph (a) of the definition of "**security officer**" of the following definition:

"(a) (i) who is employed or otherwise engaged by another

person, including an organ of **[State]state**, and who receives or is entitled to receive from such other person any remuneration, reward, fee or benefit, for rendering one or more security services; or

- (ii) who assists in carrying on or conducting the affairs of another security service provider, and who receives or is entitled to receive from such other security service provider, or any other person, any remuneration, reward, fee or benefit, as regards one or more security services;"

- (h) the substitution for paragraph (e) of the definition of "security service" of the following paragraph:

"(e) manufacturing, importing, distributing or advertising of monitoring devices contemplated in section 1 of the **[Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)]** Regulation of Interception of Communications and Provision of Communication-related Information Act (Act No. 70 of 2002);

- (i) the deletion of paragraph (g) of the definition of "**security service**";
- (j) the substitution for paragraph (h) of the definition of "**security service**" of the following paragraph:

"(h) installing, servicing **[or]**, repairing, distributing or transporting security equipment;"

- (k) the insertion after paragraph (l) of the definition of "**security service**" of the following paragraph:

"(IA) protecting or safeguarding cash or other valuables during its transportation from one point to another;" and

- (l) the substitution for paragraph (m) of the definition of "**security service**" of the following paragraph:

"(m) creating the impression, in any manner, that one or more of the services in paragraphs (a) to ~~[(l)]~~ (lA) are rendered;"

### **Amendment of section 3 of Act 56 of 2001**

2. Section 3 of the principal Act is hereby amended by—

- (a) the insertion after paragraph (b) of the following paragraph:

"(bA) promote crime prevention partnerships between the private security industry and organs of state responsible for crime prevention."; and

- (b) the substitution for paragraph (p) of the following paragraph:

"(p) promote the development of security services which are responsive to the needs of users of such services and the community; and".

### **Substitution of Section 10 of Act 56 of 2001**

3. The following section is hereby substituted for section 10 of the Principal Act:

#### **"Accountability of Council**

**10.** (1) The Council is accountable to the Minister for the performance of its functions and must 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.

(2) The Council must submit a report to the Minister—

(a) on any matter required by the Minister under subsection (1) and on any matter which it is necessary or expedient to bring to the attention of the Minister; and

(b) at least once a quarter in connection with the activities of the Authority."

#### **Amendment of section 12 of Act 56 of 2001**

4. Section 12 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) The chairperson may, after consultation with the Council, require the director **[or a deputy director]** contemplated in section 14(1) and allow any person to attend any meeting of the Council on such conditions as the chairperson may determine."

#### **Amendment of section 14 of Act 56 of 2001**

5. Section 14 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) The Council must appoint a suitably qualified and experienced person as the director of the Authority**[, as well as three deputy directors,]** on such conditions and terms as may be determined by the Council.";

(b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The director **[and deputy directors]** of the Authority must, subject to the Council's direction and control—"; and

(c) the substitution for subsection (3) of the following subsection:

"(3) The director [**and deputy directors**] of the Authority may in writing, with the approval of Council, delegate any of [**their**] his or her powers, and assign any of [**their**] his or her duties, to a staff member of the Authority."

### **Substitution of section 16 of Act 56 of 2001**

6. The following section is hereby substituted for section 16 of the principal Act:

#### **"Finances of Authority**

**16.** (1) The Authority is financed from—

(a) money that is appropriated by Parliament ; and

(b) registration fees, levies or moneys from any legitimate source which have accrued to the Authority in terms of this Act or any other law.

(2) The Council must, subject to the Public Finance Management Act and section 16A—

(a) account for money received or paid on account of the Authority; and

(b) cause the necessary accounting and other related records to be kept.

(3) The records referred to in subsection (2)(b) must be audited by the Auditor-General."

**Insertion of section 16A in Act 56 of 2001**

7. The following section is hereby inserted in the principal Act after section 16:

**"Annual report**

**16A.** (1) The Council must prepare and submit to the Minister an annual report in the form prescribed by the Minister within five months after the end of the financial year.

(2) The annual report referred to in subsection (1) must include the following documents:

(a) The audited financial statements prepared in terms of the Public Finance Management Act;

(b) the Auditor-General's report prepared in terms of the Public Finance Management Act; and

(c) a report on the activities of the Authority undertaken during the year to which the audit relates.

(3) The Minister must table in Parliament a copy of the annual report, financial statements and the audit report on those statements, within one month after receipt thereof if Parliament is in session or, if Parliament is not in session, within one month after the commencement of its next ensuing session.

(4) The director must publish the annual report, financial statements and audit report on those statements once tabled in Parliament."



## Repeal of sections 18 and 19 of Act 56 of 2001

8. Sections 18 and 19 of the Principal Act are hereby repealed.

## Amendment of section 20 of Act 56 of 2001

9. Section 20 of the principal Act is hereby amended by—

(a) the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:

"(a) if all the persons performing executive or managing functions in respect of such security business are registered as security service providers; **[and]**

(b) in the case of a security business which is a company, close corporation, partnership, business trust or foundation, if every director of the company, every member of the close corporation, every partner of the partnership, every trustee of the business trust, and every administrator of the foundation, as the case may be, is registered as a security service provider~~[.]~~; and";

(b) the addition in subsection (2) after paragraph (b) of the following paragraph:

"(c) if at least 51 percent of the ownership and control is exercised by South African citizens."

(c) the insertion after subsection (2) of the following subsection:

"(2A) Despite subsection (2), the Minister may, taking into account the security interests of the Republic, prescribe a different percentage of ownership and control in respect of different categories of the security business including, but not limited to—

- (a) guarding;
- (b) close protection;
- (c) response security;
- (d) assets in transit;
- (e) event security;
- (f) manufacturers, importers and distributors of monitoring devices;
- (g) private investigators;
- (h) security training;
- (i) electronic security;
- (k) locksmiths; and
- (l) security advisory.” ; and

(d) the addition after subsection (5) of the following subsection:

“(6) A security business that is registered as a security service provider at the commencement of the Private Security Industry Regulation Amendment Act, 2012, must comply with—

- (a) the requirements of subsection (2)(c) within five years of such commencement; and
- (b) the regulations prescribed under subsection (2A).”.

### **Amendment of section 21 of Act 56 of 2001**

**10.** Section 21 of the principal Act is hereby amended by—

- (a) the substitution in subsection (1) for paragraph (b) of the following paragraph:
  - "(b) the application fee as determined by the Authority; **[and]**"; and
- (b) the insertion in subsection (1) after paragraph (b) of the following paragraph:

"(bA) a certified copy of a valid South African identity document of a person referred to in paragraph (a)."

### **Amendment of section 23 of Act 56 of 2001**

**11.** Section 23 of the principal Act is hereby amended by—

(a) the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) is a citizen of **[or has permanent resident status in]** South Africa;"

(b) the substitution in subsection (1) for paragraph (d) of the following paragraph:

"(d) was not found guilty of an offence specified in the Schedule **[within a period of 10 years immediately before the submission of the application to the Authority]**;"

(c) the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:

"(a) every natural person referred to in section 20(2) complies with the requirements of subsection (1) and is not an unrehabilitated insolvent;  
**[and]**

(b) such security business meets the prescribed requirements in respect of the infrastructure and capacity necessary to render a security service~~[.]~~; and";

(d) the addition in subsection (2) after paragraph (b) of the following paragraph:

"(c) such security business meets the percentage of ownership and control exercised by South African citizens.";

(e) the deletion of paragraph (b) of subsection (4);

(f) the substitution for subsection (5) of the following subsection:

"Despite any provision to the contrary, a person in the permanent employ of the Service, **[the Directorate of Special Operations,]** the National Intelligence Agency, the South African Secret Service, the South African National Defence Force or the Department of Correctional Services may not be registered as a security service provider whilst so employed.";

(g) the substitution for subsection (6) of the following subsection:

"(6) Despite the provisions of subsections (1) and (2), the Authority may on good cause shown and on grounds which are not in conflict with the purpose of this Act and the objects of the Authority, register any applicant as a security service provider, except that an applicant who is not a citizen, may not be registered as a security service provider."; and

(h) the addition after subsection (6) of the following subsection:

"(7) The Minister may, on good cause shown and on grounds which are not in conflict with the purpose of this Act and the objects of the Authority, exempt any person in respect of certain categories of a security service from the exclusion referred to in subsection (1)(a) or (6)."

### **Amendment of section 26 of Act 56 of 2001**

**12.** Section 26 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) The Authority may suspend the registration of a security service provider if—

(a) there is a *prima facie* case of—

(i) improper conduct in terms of this Act; or

(ii) the commission of an offence referred to in the Schedule;

(b) the security service provider fails to comply with the obligation to pay the levy in terms of section 4 of the Levies Act; or

(c) a security service provider fails to comply with any provision of this Act.";

(b) the substitution for subsection (2) of the following subsection:

"(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).";

(c) the substitution for subsection (5) of the following subsection:

"(5) The registration of a security service provider lapses if—

(a) it is not renewed as contemplated in section 22; or

(b) the amount payable for levies in terms of section 2 of the Levies Act is not paid to the Authority within three months of the date of suspension of the registration of the security service provider concerned, unless the Authority determines otherwise."; and

(d) the insertion after subsection (5) of the following subsection:

"(5A) If the registration of a security service provider has lapsed in terms of subsection (5) the Authority must publish a notice in the Gazette, indicating—

(a) the name of the security service provider;

(b) the period after which the registration has lapsed;

(c) the reason for the lapsing of registration; and

(d) the effect of the lapsing of registration.".

## Amendment of section 35 of Act 56 of 2001

13. Section 35 of the principal Act is hereby amended by—

(a) the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) the registration by the Authority of security service providers, including the procedures in relation to the suspension, withdrawal and lapsing of registration;";

(b) the insertion in subsection (1) after paragraph (c) of the following paragraph:

"(cA) the required percentage of ownership and control exercised by citizens in respect of security service providers;";

(c) the insertion in subsection (1) after paragraph (l) of the following paragraph:

"(lA) the types of information which security service providers must furnish to the Authority when rendering a security service outside the Republic;";

(d) the insertion in subsection (1) after paragraph (s) of the following paragraph:

"(sA) minimum standards applicable to security service providers responsible for the safe transportation of cash and other valuable assets;";

(e) the substitution for subsection (3) of the following subsection:

"(3) Regulations made in terms of subsection (1) may, in respect of any contravention thereof or failure to comply therewith, prescribe as a penalty a fine or imprisonment for a period not exceeding **[24 months]** five years."; and

(f) the insertion after subsection (3) of the following subsection:

"(4) The Minister may, after consultation with the Council, issue guidelines or policies in relation to the governance of the Authority.".

**Amendment of section 36 of Act 56 of 2001**

14. Section 36 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection (3):

"(3) The Central Firearms Register in the Service must—

- (a) keep a separate updated database, in the prescribed form, of the details of every firearm issued to a security service provider; and
- (b) at the written request of the director, submit the updated database of firearms referred to in paragraph (a) to the Authority within 30 days of the request being made."

**Amendment of section 38 of Act 56 of 2001**

15. Section 38 of the principal Act is hereby amended by the insertion after subsection (3) of the following subsection:

"(3A) Any person who fails to comply with the provisions of section 38A is guilty of an offence and is liable—

- (a) on a first conviction, to a fine or to imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment ; or
- (b) on a second or subsequent conviction, to a fine or to imprisonment for a period not exceeding fifteen years, or to both a fine and such imprisonment."

**Insertion of section 38A in Act 56 of 2001**

16. The following section is hereby inserted in the principal Act after section 38:

**"Security services rendered outside Republic**

**38A. (1) Any person who, within the Republic, recruits, trains, hires out, sends or deploys any other person to provide a security service outside the Republic must—**

**(a) provide to the director on a monthly basis such information as may be prescribed regarding such recruitment, training, hiring out, sending or deployment within the prescribed time limits; and**

**(b) comply with the provisions of this Act.**

**(2) A person referred to in subsection (1) may not engage in any activity, or render any assistance, that is prohibited in terms of the Prohibition of Mercenary Activities and Regulations of Certain Activities in Country of Armed Conflict Act, 2006 (Act No. 27 of 2006) or the Regulation of Foreign Military Assistance Act, 1998 (Act No. 15 of 1998)."**

**Repeal of section 43 of Act 56 of 2001**

17. Section 43 of the principal Act is hereby repealed.



## Amendment of Schedule to Act 56 of 2001

18. The table of offences in the Schedule to the principal Act is hereby amended by—

(a) the insertion after the expression "Any offence in terms of the Regulation of Foreign Military Assistance Act, 1998 (Act No. 15 of 1998)." of the following:

"Any offence in terms of the Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act, 2006 (Act No. 27 of 2006).";

(b) the substitution for the expression "Any offence in terms of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)." of the following:

"Any offence in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act (Act No. 70 of 2002).";and

(c) the substitution for the expression "Any offence in terms of the Intelligence Services Act, 1994 (Act No. 38 of 1994)." of the following:

"Any offence in terms of the Intelligence Services Act (Act No. 65 of 2002).".

## Substitution of long title of Act 56 of 2001

19. The long title is hereby substituted for the long title of the principal Act:

"To provide for the regulation of the private security industry; for that purpose to establish a regulatory Authority; to provide for the Authority to promote crime prevention partnerships with organs of State; to provide for the appointment of the director of the Authority; to provide for the finances and accountability of the Authority; to provide for the power of the Minister to regulate foreign ownership and

control of a business operating as a security service provider; to regulate security services rendered outside the Republic; to provide for offences and penalties; and to provide for matters connected therewith."

### **Short title and commencement**

**20.** This Act is called the Private Security Industry Regulation Amendment Act, 2012, and comes into operation on a date determined by the President by proclamation in the *Gazette*.