

PC POLICE

22.10.13

COMMITTEE BILL

REPUBLIC OF SOUTH AFRICA

**PRIVATE SECURITY INDUSTRY
REGULATION AMENDMENT BILL**

As presented by the Portfolio Committee on Police)
The English text is the official text of the Bill)

(MINISTER OF POLICE)

GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with a solid line indicate insertions in existing enactment.

BILL

To amend the Private Security Industry Regulation Act, 2001, so as to amend certain definitions; to provide for additional powers of the Minister; to provide for the finances and accountability of the Authority; to provide for the appointment of the director for the Authority; 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 Index to Act 56 of 2001

1. The Index to the Private Security Industry Regulation Act, 2001, hereinafter referred to as the principal Act), is hereby amended—

(a) By the insertion after “12. Meetings and conflict of interest” of the following:

“12A Secretariat”;

(b) by the substitution for “16. Funds of Authority” of the following:

“16. [**Funds**] Finances of Authority”;

(c) by the deletion of the following:

“[17. **Bookkeeping and financial statements]**

[18. **Auditing]**

[19. **Financial year]”;**

- (d) by the insertion after “20. Obligation to register and exemptions” of the following:

“20A. Exemption Advisory Committee”;

- (e) by the insertion after “36. Provision of information to Authority” of the following:

“36A. Security services rendered outside Republic”;

Amendment of section 1 of Act 56 of 2001

2. Section 1 of the principal Act is hereby amended—

- (a) by the deletion of “(1);
- (b) by the insertion after the definition of “**business trust**” of the following definition:
“**Civilian Secretariat**’ means the national Civilian Secretariat for the Police Service established in terms of section 4(1) of the Civilian Secretariat for the Police Service Act, 2011(Act No. 2 of 2011);”;
- (c) by the substitution for the definition of “**company**” of the following definition:
“**company**’ means a company within the meaning of the Companies Act, [1973, (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008);”;
- (d) by the insertion, after the definition of “**inspector**” of the following definition:
“**Levies Act**’ means the Private Security Industry Levies Act, 2002 (Act No. 23 of 2002);”;
- (e) by the substitution for the definitions of “**locksmith**” and “**Minister**” respectively, of the following definitions:
“**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 and duplicating existing keys; or

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

'Minister' means the **[Minister for Safety and Security]** member of the Cabinet responsible for policing;;

- (f) by the insertion, after the definition of **"National Commissioner"** of the following definitions:

"National Treasury" means the National Treasury established by section 5 of the Public Finance Management Act;;

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

- (g) by 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);;

- (h) by the substitution for the definition of **"security business"** of the following definition:

"security business" means, subject to **[subsection (2)]** section 20(5) any person who renders a security service to another for remuneration, reward, fee or benefit, except a person acting only as a security officer;";

- (i) by the substitution for paragraph (a) of the definition of **"security officer"** of the following definition:

(a) (i) who is employed by another person, including an organ of **[State]** state, subject to section 20(1)(a) and (b) of the Act, 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;”;
- (j) by the substitution for paragraph (e) of the definition of “**security service**” of the following paragraph:
- “(e) manufacturing, **[importing, distributing,]** assembling, possessing, selling, purchasing, or advertising of **[monitoring devices]** listed equipment contemplated in section 1 of the **[Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)]** Regulation of Interception of Communication and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002), authorised by the Minister of Justice and Constitutional Development under section 45(2) and section 46(1)(a)(ii) of the said Act;”;
- (k) by the substitution for paragraphs (k) and (l) of the definition of “**security service**” of the following paragraphs:
- “(k) 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 (j), **[and]** (l) and (IA), to another person;
- (l) managing, controlling or supervising the rendering of any of the services referred to in paragraphs (a) to (j) and (IA);”;
- (l) by the insertion of the following paragraph in the definition of “**security service**”:
- “(IA) protecting or safeguarding of cash or goods with a high value, including precious metals or jewelry when transported on a public road, except when transported by a person at his or her own account, or by the South African National Defence Force or in the case of transport by escort of the Service;”;
- (m) by the substitution for paragraph (m) of the definition for “**security service**” of the following definition:

- "(m) creating the impression, in any manner, that one or more of the services in paragraphs (a) to ~~[(1)] (1A)~~ are rendered;" and
- (n) by the deletion of subsection (2).

Substitution of section 3 of Act 56 of 2001

3. Section 3 of the principal Act is hereby substituted for the following section:

"3. The primary objects of the Authority are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and **[the interest of the private security industry itself, and]** for that purpose, subject to this Act, to—

- [(a) promote a legitimate private 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 national interest in the rendering of security services;**
- (c) promote a private security industry which is characterized by professionalism, transparency, accountability, equity and accessibility;**
- (d) promote stability of the private 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 high standards in the training of security service providers and prospective security service providers;**
- (k) encourage ownership and control of security businesses by persons historically disadvantaged through unfair discrimination;**
- (l) encourage equal opportunity employment practices in the private security industry;**
- (m) promote the protection and enforcement of the rights of security officers and other employees in the private 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 users of such services and of the community;**
- (q) promote the empowerment and advancement of persons who were historically disadvantaged through unfair discrimination in the private security industry.]**
- (a) ensure a legitimate private security industry which—**
 - (i) acts in terms of the principles contained in the Constitution and other applicable law;**
 - (ii) is characterised by accessibility, accountability, transparency, equity, professionalism and stability; and**
 - (iii) protects and serves the interests of members of the public who use or are affected by the security services.**
- (b) determine and enforce minimum standards of occupational conduct in respect of security service providers;**
- (c) ensure that the process of registration of security service providers is transparent, fair, objective and concluded timeously;**

- (d) promote high standards in the training of security service providers and prospective security service providers;
- (e) promote the protection and enforcement of the rights of security officers and other employees in the private security industry;
- (f) 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;
- (g) promote the empowerment and advancement of persons who were historically disadvantaged through unfair discrimination in the private security industry by encouraging —
 - (i) ownership and control of security businesses by such persons; and
 - (ii) equal opportunity employment practices in the private security industry; and
- (h) promote awareness amongst the public and the private security industry on the functions and role of the Authority and the industry.”;

Amendment of section 4 of Act 56 of 2001

4. Section 4 of the principal Act is hereby amended by the substitution for paragraphs (e) to (ii) of the following paragraphs:

- “(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 or renew registration 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 as may be necessary to develop and maintain standards and regulate practices in connection with the occupation**

of security service provider, and persons pursuing or intending to pursue such occupation;

- (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;
- (j)* take 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 may be expedient or necessary in connection with the training of security service providers and prospective security service providers to ensure a high quality of training and in particular with regard to—

 - (i)* the accreditation and withdrawal of the accreditation of persons and institutions providing security training;
 - (ii)* the monitoring and auditing of the quality of training functions performed by accredited persons;
 - (iii)* the participation in the activities of other bodies or persons entitled by law to set standards in respect of training of security service providers or bodies entitled to formulate, implement or monitor skills development plans for the private security industry;
 - (iv)* the appointment of persons to monitor and assess achievements or outcomes in respect of standards applicable to training;
 - (v)* the determination and accreditation of qualifications required by security service providers to perform particular types of security services; and
 - (vi)* 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 computerised data base with information required for the proper performance of its functions;
- (n)** establish and manage branch offices;
- (o)** provide or disseminate information promoting and encouraging compliance with this Act, the Levies Act and the code of conduct, by security service providers;
- (p)** provide information to the users, prospective users or representatives of users of security services regarding the compliance of security service providers with the provisions of this Act and the Levies Act;
- (q)** establish a guarantee fund for the private security industry which is managed in the prescribed manner;
- (r)** in the prescribed manner establish a complaints office to receive, process, refer or deal with complaints regarding the quality of service rendered by security service providers;
- (s)** furnish information required by any department or any 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 approved by the Treasury;
- (v)** invest money with financial institutions registered in terms of any law;
- (w)** determine, charge and collect fees 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)** acquire or hire movable or immovable property, or hypothecate, let, sell or otherwise dispose of movable or immovable property of the Authority;
- (y)** accept donations with the approval of the Minister;

- (z) raise finance from other sources in the course of normal business;**
- (aa) manage and safeguard its assets;**
- (bb) determine minimum internal control systems for security businesses, including but not limited to, accounting and reporting procedures and any other procedures or systems;**
- (cc) become a member of an association or organisation which seeks to promote any matter in which the Authority has an interest;**
- (dd) establish relations with or enter into co-operation agreements with bodies or offices regulating the private security industry in other countries, or bodies representing such regulators;**
- (ee) conduct, or cause to be conducted, hearings, investigations and inquiries with regard to any matter falling within the scope of its functions;**
- (ff) enter into contracts including insurance agreements;**
- (gg) 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 or the Levies Act;**
- (hh) cooperate with any person or body in the performance of an act which the Authority by law is permitted to perform; and**
- (ii) generally perform any act that contributes to the attainment of its objects.]**
- (e) receive and consider applications for registration and renewal of registration as security service provider and grant or renew registration to applicants who comply with the requirements for such registration or renewal of registration in terms of this Act;
- (f) establish and manage branch offices;
- (g) provide or disseminate information promoting and encouraging compliance with this Act, the Levies Act and the code of conduct, by security service providers;

- (h) provide information to the users, prospective users or representatives of users of security services regarding the compliance of security service providers with the provisions of this Act and the Levies Act;
- (i) in the prescribed manner establish a complaints office to receive, process, refer or deal with complaints regarding the quality of service rendered by security service providers;
- (j) determine, charge and collect fees as provided for in this Act or in respect of any service rendered by the Authority or any object made available by the Authority;
- (k) determine minimum internal control systems for security businesses, including but not limited to, accounting and reporting procedures and any other procedures or systems;
- (l) conduct, or cause to be conducted, hearings, investigations and inquiries with regard to any matter falling within the scope of its functions;
- (m) 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 or the Levies Act; and
- (n) generally perform any act that contributes to the attainment of its objects.”;

Amendment of section 5 of Act 56 of 2001

5. Section 5 of the principal Act is hereby amended:
- (a) by the insertion of the following subsection after subsection (2):
“(2A) The Public Finance Management Act applies to the Council.”;
 - (b) by the substitution for subsection (4) of the following subsection:
“(4) The Authority must otherwise perform its functions in terms of this Act [and], the Levies Act and the Public Finance Management 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.”; and
 - (c) by the insertion of the following subsection:

“(6) Whenever members of the Council are unable to agree on a material financial, governance or operational issue which cannot be resolved by the Council, the Minister must mediate between the parties.”.

Amendment of section 6 of Act 56 of 2001

6. Section 6 of the principal Act is hereby amended:

- (a) by the insertion of (1) after the section number; and
- (b) by the insertion of the following subsection:

“(2) In the appointment of members of the Council, consideration must be given to appointing persons who have amongst them knowledge and experience in respect of at least finance, law and governance.”.

Insertion of section 6A in Act 56 of 2001

7. The principal Act is hereby amended by the insertion of the following section after section 6:

“Requirements for appointment as councillor

6A. A member of the Council for the Authority must be a fit and proper person with due regard to his or her experience, conscientiousness and integrity to be entrusted with the responsibilities of the office concerned.”.

Amendment of section 7 of Act 56 of 2001

8. Section 7 of the principal Act is hereby amended:

- (a) by the substitution for the words preceding paragraph (b) by the following:

“7. 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;"; and
- (b) by the deletion of paragraph (c).

Amendment of section 8 of Act 56 of 2001

9. Section 8 of the principal Act is hereby amended:

- (a) by the substitution for subsections (1) and (2) of the following subsections:

"(1) A councillor is, subject to this section, appointed for a period not exceeding [**three**] five years, on such terms and conditions as the Minister may determine in a letter of appointment, provided that all members of the Council serve on a part-time basis.

(2) A councillor is eligible for reappointment upon the expiry of his or her term of office, for a period not exceeding [**two**] one additional [**terms**] term, if he or she continues to meet the requirements for such appointment in terms of this Act.";

- (b) by the substitution for paragraphs (c) and (d) of subsection (3) of the following paragraphs:

"(c) he or she is removed from office in terms of subsection (4); [**or**]

(d) his or her written resignation is accepted; or";

- (c) by the insertion after paragraph (d) of the following paragraph in subsection (3):

"(e) he or she is no longer a fit and proper person as required in section 6A."; and

- (d) by the insertion of the following subsection 3A after subsection (3):

"(3A) When a councillor becomes subject to any disqualification referred to in section 7 or is absent from three consecutive meetings of the Council, the Chairperson, vice-Chairperson or acting chairperson contemplated in section 12(10), as the case may be, must inform the

Minister in writing within a reasonable time, but before the next meeting of Council, of such disqualification or absence.”;

- (e) by the substitution for subsection (6) of the following subsection:

“(6) A councillor, or a member of a committee appointed by the Council referred to in section 13(1), who is not an employee of the Authority or an officer or employee in the Public Service, may be paid from the funds of the Authority such remuneration and allowances as the **[Council] Minister** may determine with the concurrence of the Minister of Finance.”; and

- (f) by the deletion of subsection (7).

Amendment of section 9 of Act 56 of 2001

10. Section 9 of the principal Act is hereby amended:

- (a) by the deletion in subsection (2) of paragraph (a);
 (b) by the substitution in subsection (2) for paragraph (f) of the following paragraph:

“(f) must **[establish and]** maintain **[liaison]** a working relationship with the Civilian Secretariat **[for Safety and Security to ensure transformation in the]** to cooperate on policing and policy matters related to the **[Private Security Industry]** private security industry.”.

Amendment of section 10 of Act 56 of 2001

11. Section 10 of the principal Act is hereby amended:

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

“(1) 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 practical 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 on the activities of the Authority and 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); and**
- (c) table a copy of the annual report contemplated in paragraph (b)(i) in Parliament and present such further reports to Parliament as Parliament may request.].**
- (b) by the insertion of the following subsection, after subsection (1):
- “(1A) 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, including—
- (i) the number of security service providers registered, sold, transferred, liquidated, suspended, dormant, merged, de-accredited and prosecuted;
- (ii) the number of security officers registered, including category and functions;
- (iii) the details of training undertaken by registered security officers and training institutions;
- (iv) the number of training institutions registered, sold, transferred, liquidated, suspended and dormant;

- (v) the number of firearms registered to, lost by, stolen from, transferred by security businesses or destroyed in terms of the Firearms Control Act, 2000 (Act No. 60 of 2000);
- (vi) instances in which firearms were discharged by a security officer in the performance of his or her duties causing death or injury;
- (vii) information of criminal complaints relating security service providers reported to the Service by the Authority;
- (viii) a report in terms of the Public Finance Management Act to the Minister.”; and

- (c) by the deletion of subsection (2).

Amendment of section 11 of Act 56 of 2001

12. Section 11 of the principal Act is hereby amended:

- (a) by the substitution for the words preceding paragraph (a) of the following words:
 “If the Council or the Authority cannot or does not maintain an acceptable standard in the fulfillment of one or more of its functions in terms of this Act [~~or~~], the Levies Act and the Public Finance Management Act, the Minister may intervene by taking any appropriate step to ensure proper fulfillment of that function, including—“;
- (b) by the substitution in paragraph (b) of subparagraph (ii) of the following:
 “(ii) to prevent the Council, the Authority or any person appointed by the Council or the Authority, from taking any action which is prejudicial to the objects of the Authority; [~~and~~]”;
- (c) by the insertion of the following paragraphs after paragraph (c):
“(d) taking such corrective measures as required by the circumstances in the period whilst there is no appointed Council; and

(e) the interim appointment of a person or persons meeting the requirements contemplated in section 6A to ensure the continuity of the affairs of the Authority: Provided that the interim appointment may not exceed six months."

Amendment of section 12 of Act 56 of 2001

13. Section 12 of the principal Act is hereby amended:
- (a) by the insertion of the following paragraph after paragraph (b) of subsection (1):
"(c) The Council must meet at least once every quarter.";
 - (b) by the substitution for paragraph (a) of subsection (2):
"(a) The chairperson may at any time convene a special meeting of the Council and must also convene such a meeting if so directed by [at the written request of] the Minister in writing.";
 - (c) by the substitution for paragraph (b) of subsection (7) of the following:
"(b) a vacancy on the Council; or";
 - (d) by the substitution for paragraph (c) of subsection (7) of the following:
"(c) the fact that any person was not entitled to sit as councillor at the time the decision was taken; [or]"; and
 - (e) by the deletion of paragraph (d) of subsection (7)."

Insertion of section 12A in Act 56 of 2001

14. The following section 12A is hereby inserted after section 12 of the principal Act:

Secretariat

12A. (1) The Council must appoint a secretariat consisting of not more than three members.

(2) The secretariat must perform administrative and secretarial functions pertaining to the Council in terms of this Act.

(3) A member of the secretariat appointed by the Council may be paid from the funds of the Authority such remuneration and allowances as the Minister may determine with the concurrence of the Minister of Finance.

Amendment of section 13 of Act 56 of 2001

15. Section 13 of the principal Act is hereby amended by the substitution of subsections (1) and (2) of the following subsections:

- (1) The Council may appoint one or more committees consisting of—
- (a) one or more councillors [, or];
 - (b) one or more councillors and one or more other persons[.,,];
or
 - (c) 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]** must establish committees representing different sectors, disciplines or interests in the private security industry to advise it regarding the regulation of the private security industry, provided that no remuneration or allowances as contemplated in section 8(6) may be paid to a member of a committee established in terms of this subsection.”.

Amendment of section 14 of Act 56 of 2001

16. Section 14 of the principal Act is hereby amended:

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

“(1) The Council must appoint, in consultation with the Minister 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]** who are—

(a) citizens of the Republic; and

(b) fit and proper persons,

with due regard to their experience, conscientiousness and integrity, to be entrusted with the responsibilities with regard to their respective offices.

(b) by the insertion of the following subsection:

“(1A) Persons appointed under subsection (1) must be appointed on such conditions and terms as may be determined by the Council.

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

“(2) The director **[and deputy directors]** of the Authority must, subject to the Council’s direction and control—“;

(d) by the substitution for paragraph (c) of subsection (2) of the following:

“(c) ensure that the functions of the Authority are performed in terms of this Act **[and]**, the Levies Act and the Public Finance Management Act”;

(e) by the substitution for paragraph (f) of subsection (2) of the following:

“(f) prepare the **[business]** strategic and annual performance plan of the Authority in accordance with the Public Finance Management Act; and”;

(f) by 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 the 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.”;

(g) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(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

in terms of this Act **[and]**, the Levies Act and the Public Finance Management Act.”;

- (h) by the deletion of subsection (5);
- (i) by the substitution for subsection (6) of the following subsection:

“(6) The terms and conditions of service of the Authority’s staff and their remuneration, allowances, subsidies and other service benefits must be determined by the Council **[from time to time]**, in consultation with the Minister.”; and
- (j) by the insertion of the following subsection after subsection (6):

“(7) The fixed establishment, the number and grading of posts of the Authority must be determined by the Council with the approval of the Minister after consultation with the Minister of Public Service and Administration.”.

Substitution of section 16 of Act 56 of 2001

17. Section 16 of the principal Act is hereby substituted for the following section:

“[Funds]Finances of Authority

16. (1) [The funds of the Authority consist of money from any legitimate source, received by or which has accrued to the Authority in terms of this Act or any other law] The Authority is financed from—

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

(b) money that may be appropriated by Parliament, where necessary, appropriate and justifiable.

(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 and the Levies Act]

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.

(4) The director must report to the Council in respect of the financial affairs of the Authority as and when required.”.

Insertion of section 16A in Act 56 of 2001

18. The following section is hereby inserted after section 16 of the principal Act:

“Annual report

16A. (1) The Council must prepare and submit to the Minister an annual report in terms of section 55(1)(d) the Public Finance Management Act.

(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 including matters—

(i) referred to in section 10(1A); and

(ii) pertaining to the exemptions granted or refused and the reasons therefor.

(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.”.

Deletion of sections 17, 18 and 19 from Act 56 of 2001

19. Sections 17, 18 and 19 are hereby deleted from the principal Act.

Amendment of section 20 of Act 56 of 2001

20. Section 20 of the principal Act is hereby amended:

- (a) by the insertion of the following paragraph in subsection (1):

“(c) A security business may not use the services of a person who is not registered in terms of this Act to render a security service.”;

- (b) by the substitution for paragraph (a) in subsection (2) for the following paragraph:

“(a) if all the persons performing executive or managing functions in respect of such security business are registered as security service providers, unless such person is exempted in terms of this Act; and”;

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

“(5) The Minister may, after [consultation with the Authority] having regard to the recommendations of the Exemption Advisory Committee referred to in section 20A, by notice in the Gazette exempt any—

- (a) 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; or

(b) service, activity, practice, equipment, person or entity from any provision of this Act,

as long as it does not prejudice the achievement of the objects of this Act."

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

"(6) The Minister must take a decision within 90 days of receipt of the application for exemption contemplated in this Act, and in the case of refusal provide the applicant with reasons within 30 days of the date of receipt of a request for reasons."

Insertion of section 20A in Act 56 of 2001

21. The following section is hereby inserted in the principal Act after section 20:

"Exemption Advisory Committee

"20A. (1) The Exemption Advisory Committee is hereby established.

(2) The Committee consists of a representative of the—

(a) Authority;

(b) Civilian Secretariat;

(c) Department of Home Affairs;

(d) Service;

(e) Department of Trade and Industry; and

(f) State Security Agency,

appointed by the Minister.

(3) The representative of the Civilian Secretariat must be a legally qualified person and must chair the Committee.

(4) The Committee must make recommendations to the Minister in respect of exemptions referred to in section 20(5).

(5) The Minister may prescribe procedural matters and the factors to be considered in relation to the function of the Committee referred to in subsection (4).

(6) The regulations referred to in subsection (5) must be tabled in the National Assembly for scrutiny and adoption—

(a) within 6 months of promulgation of this Act; and

(b) thereafter at least 30 days before promulgation of the regulations, while the it is in session or after the next session starts.”.

Amendment of section 21 of Act 56 of 2001

- 22.** Section 21 of the principal Act is hereby amended;
- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 “(b) the application fee as determined by the [Authority] Council; [and]”;
- (b) by the insertion after paragraph (b) of subsection (1) of the following paragraphs:
“(bA) a certified copy of a valid identity document of a person referred to in paragraph (a);
“(bB) a design of the security service provider’s insignia, emblem, title or symbol whether on a uniform , vehicle or otherwise; and”.

Amendment of section 23 of Act 56 of 2001

- 23.** Section 23 of the principal Act is hereby amended:
- (a) by the substitution for paragraph (d) of subsection (1) of the following:

- “(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];**
- (b) by the substitution for subsection (4) of the following subsection:
- (4) The Authority may 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 the Schedule or who is being criminally prosecuted in respect of such an offence[; **or**
- (b)** **was convicted of an offence specified in the Schedule more than 10 years immediately before the submission of the application for registration to the Authority].”; and**
- (c) by the substitution for subsection (5) of the following:
- “(5) 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.”.

Amendment of section 26 of Act 56 of 2001

24. Section 26 of the principal Act is hereby amended:
- (a) by the substitution for subsection (1) and (2) of the following subsections:
- “(1) **[If there is a prima facie case of improper conduct in terms of this Act, or of the commission of an offence referred to in the Schedule, against a security service provider, the Authority may suspend the registration of the security service provider-**
- (a)** **pending the conclusion of an investigation or enquiry by the Authority into the alleged improper conduct; or**

(b) pending the conclusion of the criminal investigation by the State into the offence in respect of that security service provider, or a determination by the prosecuting authority or the finalisation of criminal proceedings in regard to the offence]. 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.

(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).”;

(b) by the substitution for subsection (3) of the following:

“(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 during the period of such suspension the security service provider is still bound by all the obligations of a registered security service provider provided for in this Act and in the Levies Act.

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

“(5) **[The]** Subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), 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.”;

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

“(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.”; and

- (e) by the insertion of the following subsections after subsection (8):

“(9) The Authority must report any suspension or the withdrawal of registration made in terms of subsection (7) and any upliftment of suspension of registration made in terms of subsection (8) to the Minister within 30 days of the suspension, withdrawal or upliftment.”.

“(10) The Authority must include any report referred to in subsection (9) in its annual report.”.

Amendment of section 28 of Act 56 of 2001

25. Section 28 of the principal is hereby amended by the substitution for subsection (2) of the following:

“(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 his or her own employees to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control.”.

Amendment of section 30 of Act 56 of 2001

26. Section 30 of the principal Act is hereby amended:
- (a) by the substitution for the words preceding paragraph (a) in subsection (2) of the following words:

“(2) An appeal committee contemplated in subsection (1) is appointed by the Minister [**for every appeal**] and consists of—”;
 - (b) by the substitution for paragraph (b) of subsection (2) of the following:

“(b) two other persons if [**it is**] considered appropriate by the Minister.”;
 - (c) by the insertion of the following subsection after subsection (2):

“(2A) (a) An appeal committee is appointed to function on a part-time basis for a period not exceeding three years on such terms and conditions as determined by the Minister.

(b) A member of the appeal committee may resign by notice in writing to the Minister.”; and
 - (d) by the insertion of the following subsection after subsection (7):

“(8) All costs related to the appeals procedure must be borne by the Authority.”.

Amendment of section 32 of Act 56 of 2001

27. Section 32 of the principal Act is hereby amended by the insertion of the following subsection after subsection (3):
- “(4) The Authority must include any penalties imposed under subsection (3) in the Annual Report.”.

Amendment of section 34 of Act 56 of 2001

28. Section 34 of the principal Act is hereby amended:

- (a) By the substitution for the words preceding paragraph (i) in subsection (1) of the following:
 “(a) without prior notice, subject to subsection (6), enter any premises—”;
- (b) by the substitution for subparagraph (iii) of paragraph (a) of subsection (1) of the following:
 “(iii) where₁ or from where₁ a security service is rendered or the director has reason to believe that such a service is rendered;”;
- (c) by the substitution for paragraph (b) of subsection (3) of the following:
 “(b) An inspector may use the powers in terms of this subsection only to serve the purposes of this Act [**and matters incidental thereto**].”;
- (d) by the insertion of the following paragraph after paragraph (5):
 “(6) An inspection of private dwellings may only be carried out when authorised by a warrant issued by a competent court.”.

Amendment of section 35 of Act 56 of 2001

29. Section 35 of the principal Act is hereby amended:
- (a) by the substitution for paragraph (b) of subsection (1) 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) by the insertion after paragraph (e) of subsection (1) of the following paragraph:
 “(eA) guidelines in respect of insignia, emblem, title or symbol whether on a uniform, vehicle or otherwise;”;
- (c) by the substitution for paragraphs (f) and (g) of subsection of the following paragraphs:

- "(f) the **[uniform, insignia and]** registration and identification certificates of security service providers;
- (g) the types of uniforms, insignia, emblem, title, symbol, distinctive badges or buttons which may not be supplied to, used or worn by, a security service provider;"
- (d) by the insertion of the following paragraph after paragraph (l) of subsection (1):
- "(IA) the types of information which security service providers must furnish to the Authority when rendering a security service outside the Republic;";
- (e) by the insertion of the following paragraphs after paragraph (s) of subsection (1):
- "(sA) minimum standards applicable to security service providers responsible for the safe transportation of cash or goods with a high value, including precious metals or jewellery;
- (sB) minimum standards for the provision of security services at national key points as referred to in section 1 of the National Key Points Act, 1980 (Act No. 102 of 1980);"; and
- (f) by 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
- (g) by the insertion of the following paragraph after paragraph (3):
- "(4) The Minister may, after consultation with the Council, issue guidelines or policies in relation to the governance of the Authority."
- (h) by the insertion of the following subsection after subsection (4):
- "(5) Any regulation made under this section must be tabled in Parliament for notification."

Amendment of section 36 of Act 56 of 2001

30. Section 36 of the principal Act is hereby amended—

(a) by the substitution for the heading of the section of the following:

“Provision of information [to Authority]”.

(b) by the insertion after subsection (2) of the following subsections:

“(3) The Authority must inform the Registrar as defined in section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000), at the time of any new registration, suspension, sale, transfer, liquidation, merger, lapsing or termination of the registration or ownership of a security service provider or any other reason that would necessitate the licensing, relicensing or disposal of firearms in the possession of such security service provider.

“(4) The Registrar mentioned in subsection (3) must, at the written request of the director, submit a list of all firearms registered to a particular security service provider, to the Authority within 30 days of the request being made.”.

Insertion of section 36A in Act 56 of 2001

31. The following section is hereby inserted after section 36 of the principal Act:

“Security services rendered outside Republic

“36A. (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 quarterly basis such information as may be prescribed regarding such recruitment, training, hiring out, sending or deployment or nature of the security service 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 Regulation 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).

(3) Any person who—

(a) is employed by another person from outside the Republic, and

(b) is deployed from the Republic to perform armed guarding services outside the Republic,

must at least two weeks before the deployment inform the Authority of such deployment in the prescribed manner.

(4) The information referred to in subsection (3) must be submitted by the Authority to the Service within seven days of receipt of the notification.”

Amendment of section 38 of Act 56 of 2001

32. Section 38 of the principal Act is hereby amended:

(a) By the substitution for paragraph (b) and (c) of subsection (2) for the following paragraphs:

“(b) without lawful excuse refuses or fails to answer a question put to him or her by an inspector or a member of the Service; **[or]**

(c) 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; or”;

(b) by the insertion after paragraph (c) of subsection (2) of the following new paragraph:

“(d) any security service provider who—

(i) allows the use of any insignia, emblem, title or symbol whether on uniform or vehicle or otherwise, or

(ii) allows the use of any uniform, which corresponds or can be confused with any uniform insignia, emblem, title symbol

used by the South African National Defence Force or the South African Police Service.”;

- (c) by the substitution for subparagraphs (i), (ii) and (iii) of paragraph (i) of subsection (3) of the following paragraphs:

- “(i) in the case of a natural person, on a first conviction of a contravention referred to in paragraph (a), (e), (f), (g) and (h) is liable to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment, and in the case of a juristic person, to a fine ;
- (ii) in the case of a natural person, on a second or subsequent conviction of a contravention referred to in paragraph (a), (e), (f), (g) and (h) is liable to a fine or to imprisonment for a period not exceeding ten years, or to both a fine and such imprisonment, and in the case of a juristic person, to a fine;
- (iii) in the case of a natural person, on a conviction of a contravention referred to in paragraph (b), (c), (d), [(e), (f), (g), (h),] or (i), is liable to a fine or to imprisonment for a period not exceeding 24 months, or to both a fine and such imprisonment, and in the case of a juristic person, to a fine.”;
- and

- (d) the insertion of the following subsection after subsection (3):

“(3A) Any person who fails to comply with the provisions of section 36A(1) or (3) is guilty of an offence and is liable—

- (a) in the case of a natural person, 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 , and in the case of a juristic person, to a fine; or
- (b) in the case of a natural person, on a second or subsequent conviction, to a fine or to imprisonment for a period not exceeding 15 years, or to both a fine and such imprisonment, and in the case of a juristic person, to a fine.”.

Amendment of section 41 of Act 56 of 2001

33. Section 41 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(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, except the power mentioned in sections [1(2),] 6, 8, 20, 20A, 28, 30 or 35 to the National Commissioner or a member of the Service designated by the National Commissioner.”.

Amendment to the Schedule to Act 56 of 2001

34. The Schedule to the principal Act is hereby amended:

- (a) by the insertion after “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).”; and
- (b) by the insertion after “Any offence in terms of legislation pertaining to the control over the possession and use of firearms and ammunition;” of the following:
“Any offence in terms of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2000 (Act No. 70 of 2002).
Any offence in terms of the Intelligence Services Act (Act No. 65 of 2002).”

Substitution for long title to Act 56 of 2001

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

“To provide for the regulation of the private security industry; for that purpose to establish a regulatory authority; to provide for cooperation with the Civilian Secretariat for Police ; 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 establishment and functions of the Exemption Advisory Committee; 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

36. This Act is called the Private Security Industry Regulation Amendment Act, 2013, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE PRIVATE SECURITY INDUSTRY
REGULATION AMENDMENT BILL, 2012**

1. BACKGROUND

1.1 The Private Security Industry has grown tremendously over the past years since the establishment of the Private Security Industry Regulatory Authority (the Authority). Since the promulgation of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) (the Act), government and civil society have been

concerned with the regulation of the industry, particularly with regard to effective regulation, given the challenges of growth and funding of the Authority, which is wholly derived from the contributions of the private security industry.

1.2 The challenges of the private security industry manifested themselves in many ways which included—

- The lack of adequate resources, which compromised effective regulation;
- the lack of proper accountability for fire-arms in the possession of members of the private security industry;
- security services rendered outside the Republic by South African security companies; and
- criminality within the private security industry.

1.3 As a result of the challenges, the tightening of the South African regulatory framework for the private security industry became necessary. The call for the review of the Act was also affirmed by government's strategic plan to build a developmental state in order to ensure that every citizen feels and is safe.

1.4 Drawing from the valuable lessons of the application and implementation of the current private security regulatory regime as informed by the Act and the policy formulated relating to the industry, the draft Private Security Regulation Amendment Bill (the Bill) was produced.

1.5 The Bill was also a product of an open and transparent consultative process. On 30 May 2012, the Cabinet approved the Bill for introduction in Parliament.

2. OBJECTS OF THE BILL

2.1 The Bill seeks to give effect to the government White Paper on Peace and Security to strengthen the legislation and regulatory framework of the private security industry.

2.2 The provisions of the Bill are summarised as follows:

2.2.1 Ad clause 1

Clause 1 amends the Index to the Act by referring to new section headings relating to insertions to the Bill, amendments to certain existing section headings and deletions to certain sections.

2.2.2 Ad Clause 2

Clause 2 amends section 1 of the Act and seeks to align the definitions for “company”, “Levies Act”, “locksmith”, “minister”, “organ of state”, “security business”, “security officer”, and “security service” in the Act with new developments and also insert definitions for “National Treasury” and “Public Finance Management Act” to provide in respect of the changed status of the Authority as a public entity, as well as a definition for the “Civilian Secretariat”. The clause also removes the power of the Minister to grant exemptions from the definitions section and transports this power to section 20 of the Act with an insertion of a new clause 20A in the Bill that relates to the establishment of an Exemption Advisory Committee.

2.2.3 Ad clause 3

Clause 3 substitutes section 3 of the principal Act that provides for the objects of the Authority by deleting certain objects and re-arranging retained objects in clusters to provide for a logical sequence.

2.2.4 Ad clause 4

Clause 4 amends section 4 of the principal Act that deals with the functions of the Authority by deleting paragraphs (e) to (ii) and substituting it with new paragraphs (e) to (n).

2.2.5 Ad Clause 5

Clause 5 of the Bill amends section 5 of the principal Act by inserting a new section 5(2A) that provides for the Public Finance Management Act to apply to the Council and for the Minister of Police to mediate where Council is unable to agree on material financial, governance and operational issues.

2.2.6 Ad Clause 6

Clause 6 amends section 6 of the principal Act by providing that the Minister of Police must give consideration to appointing members to the Council who, amongst them, must have certain skills, knowledge and experience that will enhance proper governance and oversight over the Authority.

2.2.7 Ad Clause 7

Clause 7 inserts a new clause 6A in the principal Act that provides that a member of Council must be a fit and proper with the necessary experience and qualities of integrity and conscientiousness.

2.2.8 Ad Clause 8

Clause 8 amends section 7 of the principal Act by providing that a member of Council must be a South African citizen and deletes the provision in section 7(a) that refers to permanent resident status. This clause also deletes section 7(c) that relates to disqualification for appointment as a councillor.

2.2.9 Ad Clause 9

Clause 9 amends section 8 of the principal Act by increasing the maximum period of the appointment of a member of Council from three to five years and for the members to serve on a part-time basis. This clause also for the Minister of Police to be informed whenever a member of Council becomes subject to a disqualifying factor or absence from three consecutive meetings.

2.2.10 Ad Clause 10

Clause 10 amends section 9 of the principal Act by providing that the Council must maintain a working and cooperative relationship with the Civilian Secretariat on policing and policy matters related to the private security industry.

2.2.11 Ad Clause 11

Clause 11 amends section 10 of the principal Act by deleting paragraphs (a) to (c) in subsection (1) and inserting subsection (1A) which deals with the accountability of the Private Security Industry Regulatory Authority Council (the Council). The clause seeks to provide for the accountability of the Council to the Minister of Police and quarterly reporting of information in connection with its functions and certain compulsory information.

2.2.12 Ad clause 12

Clause 12 amends section 11 of the principal Act by empowering the Minister to take corrective measures when there is no appointed Council and for the Minister to make an interim appointment to ensure continuity of the affairs of the Authority.

2.2.13 Ad clause 13

Clause 13 amends section 12 of the principal Act by providing that Council must meet at least once every quarter.

2.2.14 Ad clause 14

Clause 14 inserts section 12A that provides for the Council to appoint a secretariat that must provide secretarial functions to the Council.

2.2.15 Ad clause 15

Clause 15 amends section 13 of the principal Act by making it obligatory for the Council to establish committees representing different sectors in the private

security industry.

2.2.16 Ad clause 16

Clause 16 amends section 14 of the principal Act by providing that the Council must appoint the director and deputy directors of the Authority in consultation with the Minister. The clause also seeks to provide for the director to perform his or her functions in terms of the Public Finance Management Act and prepare strategic and annual performance plans in accordance with the Public Finance Management Act. The clause also seeks to delete references to “deputy directors” in section 14(2).

2.2.17 Ad clause 17

Clause 17 substitutes section 16 of the principal Act. The clause seeks to provide for a funding model for the Authority. The clause provides that Authority is financed from levies or monies that have accrued to it in terms of the principal Act and any monies that may be appropriated by Parliament where this is necessary, appropriate and justifiable. Council is the accounting authority and is subject to the Public Finance Management Act.

2.2.18 Ad clause 18

Clause 18 seeks to insert section 16A into the principal Act. The insertion provides for the Council to submit an annual report to the Minister in terms of section 55(1)(d) of the Public Finance Management Act and for the Minister to table a copy of the annual report, financial statements and audited statements to Parliament.

2.2.19 Ad clause 19

Clause 19 seeks to delete sections 17, 18 and 19 from the principal Act. The repealed sections deal with the auditing and financial year-end of the Authority which are adequately covered by the Public Finance Management Act, 1999 (Act No. 1 of 1999).

2.2.20 Ad clause 20

Clause 20 amends section 20 of the principal Act by providing that a security business may not use the services of a person who is not registered in terms of the principal Act to render a security service. The clause also provides for the Minister to have regard to the recommendations of the Exemption Advisory Committee when making decisions on applications for exemptions.

2.2.21 Ad clause 21

Clause 21 inserts a new section 20A in the Act and seeks to establish the Exemption Advisory Committee and provide for its composition, functions and procedures by the insertion of section 20A to the principal Act.

2.2.22 Ad clause 22

Clause 22 amends section 21 of the principal Act which deals with application for registration as a security service provider. The clause seeks to provide for new requirements for documents required for registration as a security officer. Submission of a certified copy of a valid South African identity document is inserted as a new requirement.

2.2.23 Ad clause 23

Clause 23 amends section 23 of the principal Act by deleting the discretion to register natural persons who have previous criminal convictions.

2.2.24 Ad clause 24

Clause 24 amends section 26 of the principal Act to provide for additional requirements for suspension of the registration of security businesses.

2.2.25 Ad clause 25

Clause 25 provides for the amendment of section 28(3) to delete the requirement

that unregistered security service providers must comply with the Act as they already commit an offence by acting as security service providers without being registered.

2.2.26 Ad clause 26

Clause 26 amends section 30 of the principal Act by providing for the Minister to appoint an appeal committee to function on a part-time basis to consider appeals. The clause also provides for the costs related to the appeals procedure to be borne by the Authority.

2.2.27 Ad clause 27

Clause 27 provides for the amendment of section 32 of the Act and seeks to provide for the reporting of penalties imposed by the Authority in the Annual report of the Authority.

2.2.28 Ad clause 28

Clause 28 amends section 34 of the principal Act providing for inspections of private dwellings to be carried out with a warrant issued by a competent court.

2.2.29 Ad clause 29

Clause 29 amends section 35 of the principal Act, which sets out the matters in respect of which the Minister may make regulations. It seeks to provide for additional powers of the Minister to make regulations in relation to the procedures for the suspension, withdrawal and lapsing of registration; information to be furnished to the Authority by security service providers operating outside the Republic; and minimum standards for security service providers responsible for transportation of cash and other valuable assets; guidelines in respect of insignia, emblem, title or symbol used by security service providers; guidelines in relation to the governance of the Authority. The maximum term of imprisonment

that may be provided for contravention of the regulations has been increased from 24 months to five years.

2.2.30 Ad clause 30

Clause 30 amends section 36 of the Act. The clause seeks to provide for the keeping of a separate register of fire-arms issued to private security service providers and for the provision of such information to the Authority upon request.

2.2.31 Ad clause 31

Clause 31 inserts section 36A in the Act. This new section provides for the regulation of security services rendered outside the Republic by the Authority. The clause also provides for any person who is employed by another person from outside the Republic and is deployed from the Republic to perform armed guard duties outside the Republic to inform the Authority of such deployment and for the Authority to inform the South African Police Service.

2.2.32 Ad clause 32

Clause 32 amends section 38 of the Act, which deals with offences and penalties. The clause seeks to provide for additional offences and penalties in relation to convictions for offences as contemplated in the new section 36A as well as to increase sentences for certain offences. Penalties are provided for natural persons as well as for juristic persons.

2.2.33 Ad clause 33

Clause 33 amends section 41 of the Act with regard to delegation of powers by the Minister.

2.2.34 Ad clause 34

Clause 34 amends the table of offences listed in the Schedule to the Act.

2.2.35 Ad clause 35

Clause 35 provides for the substitution of the long title of the Act.

2.2.36 Ad clause 36

Clause 36 provides for the short title and commencement of the Act.

3. DEPARTMENTS / BODIES / PERSONS CONSULTED

The Authority has indicated that it consulted with following when it engaged in the drafting of the Bill, as introduced, -

Government Departments and State Entities

- (a) Department of International Relations and Cooperation;
- (b) Department of Labour;
- (c) South African Human Rights Commission;
- (d) Statistics South Africa;
- (e) Department of Home Affairs;
- (f) National Prosecuting Authority;
- (g) Secretariat of Police;
- (h) Department of Trade and Industry;
- (i) Department of Justice and Constitutional Development;
- (j) Department of Public Service and Administration;
- (k) Department of Defence;
- (l) National Treasury; and
- (m) State Security Agency.

Industry Associations

- (a) Vehicle Security Association of South Africa (VESA);
- (b) Security Industry Alliance (SIA);
- (c) Locksmith Association of South Africa (LASA);
- (d) Fire Detection Installers Association (FDIA);

- 4.1 Funding of the Authority;
- 4.2 Capacity building;
- 4.3 Exemption Committee; and
- 4.4 Renewal of registration.

5. PARLIAMENTARY PROCEDURE

5.1 The State Law Advisers and the Department are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or section 76 of the Constitution applies.

5.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.