

PRIVATE SECURITY INDUSTRY REGULATION AMENDMENT BILL

**THE PORTFOLIO COMMITTEE
FOR POLICING**

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Presented by Martin Hood

INTRODUCTION

- Mandated by:
 - SSG OPERATIONAL RISK SERVICES (PTY) LTD
 - NICHOLLS STEYN & ASSOCIATES (PTY) LTD
 - EVENTS SAFE SECURITY SERVICES CC

- Comment on proposed Private Security Industry Regulation Bill (“the Bill”)

CURRENT SITUATION

- Distrust between the Private Security Industry Regulatory Authority (“the Authority”) and the private security industry

“The draft Amended Bill was also a product of an open and transparent consultative process.”

- No consultation
- Not in good faith
- In conflict with the Constitution
- Re-enforces attitude of mistrust and antipathy

INTENTION OF BILL

- Legislators congratulated
 - Remedy number of problem areas private security legislation
 - Increase control over and in the industry
- However
 - Unintended consequences must avoided
 - Long terms effects must be considered

CONCERNS

- Private Security Industry is one of, if not the largest, single employer per industry in South Africa.

- Therefore regulation must :
 - Not constitute a bar to entry
 - Promote employment
 - Redress past discrimination especially at entry level
 - Be precise and comprehensive

INTENT OF LEGISLATION

- Intent must
 - Exclude what cannot be done
 - State what can be done

- Open democratic society,
 - All law scrutinized by Parliament and Relevant Portfolio Committee
 - Discourage broad, sweeping, unspecified powers to a Minister - may have negative impact on business

- Minimise
 - Misunderstandings
 - Legal challenges

PARTNERSHIP

- Positive aspects of the Bill.
 - Addresses previous failed initiatives
 - Promotes crime prevention partnerships with State and private industry
 - Cut down on and eradicate crime

- However
 - Power to proclaim partnership by Minister
 - Selected categories security officers need some powers of the SAPS in terms of the Criminal Procedure Act
 - expanded powers of arrest
 - search and
 - seizure

RATIONALE AND PURPOSE

- Drafters define:
 - Rationale for each amendment
 - And projected purpose they seek to achieve
- For example the definition of:
 - “security officer” would now include car guards
 - “security service”
 - “..... *distributing or transporting security equipment*”
 - Onerous on other industries i.e. board members of Transnet need to be registered
- Section 3, is to be applauded
 - Refined to give content and direction
 - The type of partnerships can be entered into

FOREIGN OWNERSHIP LIMITATIONS

- Contentious

the threat to increased national security posed by the participation of foreign nationals.....”

- Absence of proof
- Perceived xenophobic threat, to mislead Portfolio Committee
- Threat to national security is non-existent

- Potential adverse financial consequences

- Withdrawal of certain industries or manufacturers
- Loss of jobs

FOREIGN OWNERSHIP LIMITATIONS

- Large international companies
 - i.e. Samsung or Siemens
 - Manufacture, distribute, and transport systems/components
 - Suggested 51% local ownership
 - May result in disinvestment

- Security companies owned in part or in full by a listed company
 - Impossible to dictate percentage local ownership
 - Shares freely traded on JSE
 - No control over who buys / sells shares

UNACCOUNTABLE POWER

- Proposed sub-section 2(a) is **extremely dangerous**
 - Minister given power to make unilateral decisions
 - No form of Parliamentary or
 - Public scrutiny
 - Unaccountable to anybody
 - Apartheid style legislation
 - Considering impending Protection of Information Act
- No guidelines in Act specifying
 - How to make such a decision
 - What factors to take into account

UNFETTERED DISCRETION

- Section 23 confers upon the Minister
 - Unfettered discretion to prescribe requirements for
 - Infrastructure and
 - Capacity of a security business

- Conflicts with the Constitution*

It is an **unfettered power** conferred upon the Minister, **without** reasonable or defined limitation

*Section 22 (Freedom of Trade Occupation and Profession) read with the Section 36 limitation clause of the Constitution

CONCLUSION

- All proposed amendments must
 - Be concise and comprehensive
 - Consider unintended consequences
 - Be in line with the constitution
 - Not constitute a bar to entry
 - Redress past discrimination especially at entry level
 - Examine possible Financial consequences

Thank you for your time

Questions

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