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[25 November 2011]

PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY ACT 56 OF 2001 AND SECURITY OFFICERS ACT NO. 92 OF 1987

NOTICE 2 OF 2011

PUBLICATION OF AMENDMENT TO THE REGULATIONS MADE UNDER THE SECURITY OFFICERS ACT (ACT NO. 92 OF 1987)

The Private Security Industry Regulatory Authority has, with the concurrence of the Minister of Police, under sections 43 and 44(7) of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) read with section 32(1) of the Security Officers Act, 1987 (Act 92 of 1987), made the Regulations in the Schedule hereto.

Mr. Nathi Mthethwa MP

Minister of Police

SCHEDULE**AMENDMENT OF THE REGULATIONS MADE UNDER THE SECURITY OFFICERS ACT, 1987 (ACT 92 OF 1987)****Definitions**

1. In this Schedule-

(a) "the Regulations" means the regulations published by Government Notice No. R.797 in *Government Gazette* No. 12413 of 2 April 1990, as amended;

(b) "the Act" means the Security Officers Act, 1987 (Act 92 of 1987);

(c) "the Authority" means the Private Security Industry Regulatory Authority established in terms of section 2(1) of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) and has the same meaning as the "Board" as defined in section 1 of the Act.

Commencement

2. The Regulations contained in this Schedule will come into effect on 1 December 2011.

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended-

(a) by the substitution for the definition of "prescribed amount" of the following definition:

"prescribed amount" in regard to a security business means the sum of the applicable amounts contemplated in regulation 9 (3), and in the case of any person registered as a security officer, not acting as a security business, the amount contemplated in regulation 9 (4);

(b) by the deletion of the definition of "prescribed fees"; and

(c) by the deletion of the definition of "Registrar of the Board".

Substitution of regulation 7 of the Regulations

4. The following regulation is hereby substituted for regulation 7 of the Regulations:

"Payment of prescribed amounts and related matters

7. (1) Every security business must, on or before the 15th day of each calendar month furnish to the Board a document signed or authenticated by a responsible person acting on behalf of such security business, being a return with the full name, identity number, contact telephone number and the registration number of a person registered by the Board in terms of section 11 (3) of the Act, and the period of service during that month, and in which geographic area or areas of every person employed, used, deployed, engaged or made available by it for the rendering of a security service during that month or any part of that month.

(2) A security business must pay to the Board that portion of the prescribed amount as is referred to in regulations 9(3)(a) and 9(3)(b), in accordance with subregulation (3) of this regulation.

(3) (a) The prescribed amount for a year must, subject to this subregulation, be paid to the Board on or before 30 April of the year concerned.

(b) In the case of a security business becoming registered in terms of section 11 of the Act on or after 1 April in a given year, the prescribed amount in respect of that year must be paid to the Board on or before the last day of the month during which the security business was so registered.

(4) A security business must pay to the Board that portion of the prescribed amount arrived at in accordance with regulation 9 (3)(c), within three (3) days after the

end of each calendar month, commencing in April and ending in March.

- (4A) (a) A security business must pay to the Board an amount equal to the prescribed amount referred to in regulation 9 (4), for every security officer employed, used, deployed or made available by that security business to render a security service during April in a given year, to the Board on or before 30 April of the year concerned.
- (b) In respect of security officers not employed, used, deployed or made available by a security business to render a security service during April in a given year, but who become employed, or are used, deployed or made available by a security business to render a security service in any later month in a given year, the security business must pay to the Board, on or before the last day of each remaining month in that year, an amount equal to the prescribed amount referred to in regulation 9 (4), for every security officer who becomes employed, used, deployed or made available by that security business to render a security service during each such month and in respect of whom that amount has not already been paid to the Board during that year.
- (5) Nothing in this regulation prevents a written agreement being entered into between the Board and any security business regarding the method and date of payment of the prescribed amount.
- (6)
- (7) Any security business which fails to pay to the Board, within the period allowed for such payment—
- (a) the prescribed amount payable in terms of this regulation;
- (b) the prescribed amount payable in terms of an agreement referred to in subregulation (5); or
- (c)
- (d) an amount deducted by it in terms of section 18 (4) (a) of the Act,
- must pay to the Board-
- (a) the unpaid amount referred to above;
- (b) interest on the unpaid amount at the rate determined from time to time in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975); and
- (c) a penalty arrived at by calculating ten (10) per cent of that sum arrived at by adding to the unpaid amount the interest accrued thereon to date of calculation of the penalty:

Provided that if the Board is satisfied that the failure to pay or pay over any amount in terms of this regulation was not due to an intent to evade or postpone payment or otherwise evade obligations in terms of this regulation or the Act, it may remit the whole or part of the penalty imposed in terms of paragraph (c) of this subregulation.

- (8) Any amount of interest and any penalty owing to the Board in terms of subregulation (7) will be regarded as part of the prescribed amount as contemplated in section 18 (1) and section 18 (2) of the Act.
- (9) Any security business which—
- (a) fails to provide the Board with the return contemplated in subregulation (1) within the period allowed;
 - (b) fails to provide the Board with a return that materially complies with the requirements contained in subregulation (1);
 - (c) intentionally or negligently submits a return to the Board which is false or misleading in any material respect;
 - (d) fails to provide the Board within the period allowed with the additional information required by the Board in terms of subregulation (3) (d); or
 - (e) fails to deduct an amount as contemplated in section 18 (4) (a) of the Act from the remuneration of a security officer that it should have deducted,
- will be guilty of an offence and on conviction liable to a fine not exceeding R1 000.
- (10) Any director, member, owner, partner, trustee, administrator or manager, according to the case, of a security business—
- (a) who fails to take all reasonable steps to ensure that the security business of which he or she is a director, member, owner, partner, trustee, administrator or manager, according to the case—
 - (i) complies with an obligation in terms of subregulation (1);
 - (ii) complies with an obligation in terms of subregulation (3) (d);
 - (iii) complies with an obligation in terms of section 18 (4) (a) of the Act to deduct an amount from the remuneration of a security officer; or
 - (iv) does not contravene a provision of subregulation (9); or
 - (b) who intentionally or negligently submits a return referred to in subregulation (1) to the Board or allows such a return to be submitted to

the Board on behalf of the security business in question, which is false or misleading in any material respect,
will be guilty of an offence and on conviction be liable to a fine not exceeding R1 000 or to imprisonment for a period not exceeding six (6) months.

Substitution of regulation 9 of the Regulations

5. The following regulation is hereby substituted for regulation 9 of the Regulations:

“Prescribed amounts.—

9. (1)

(2).

(3) The prescribed amount contemplated in section 18 (1) of the Act must, in the case of a security business registered as a security officer, be determined by adding together the amounts set out in paragraphs (a) or (b), as the case may be, and (c) below:

(a) the amount of R4,250.00 per year; or

(b) in the case of a security business becoming registered in terms of section 11 of the Act on or after 1 April in a given year, one twelfth of the amount referred to in subregulation (a), multiplied by the number of months in the applicable year in which the security business was registered, commencing in the month during which the security business was so registered, and ending in March; and

(c) the amount of R7.00 per calendar month or any part thereof, multiplied by the number of persons employed, used, deployed or made available to render a security service for a calendar month or any part thereof.

(4) The prescribed amount contemplated in section 18 (1) of the Act, in the case of a person registered as a security officer, not acting as a security business, is as follows:

R84.00 per year or any part thereof.

Transitional arrangements

For the period commencing on 1 April 2011 and ending on 31 March 2012, that portion of the prescribed amount-

(a) referred to in regulation 9(3)(a) or 9(3)(b), as the case may be, shall for a security business

be the amount equal to one twelfth of the amount referred to in regulation 9(3)(a) or 9(3)(b), as the case may be, multiplied by four, and must be paid to the Board on or before the last day of December 2011;

- (b) referred to in regulation 9(4), shall for a security officer be the amount equal to one twelfth of the amount referred to in regulation 9(4), multiplied by four, and must be paid to the Board on or before the last day of December 2011.
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