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STATE SECURITY AGENCY STAATSVEILIGHEIDSAGENTSAP

No. R. 62

29 January 2014

MINISTRY OF STATE SECURITY

COMMENCEMENT OF THE ELECTRONIC COMMUNICATIONS SECURITY NEEDS ANALYSIS REGULATIONS IN TERMS OF SECTION 6 OF THE NATIONAL STRATEGIC INTELLIGENCE ACT, 1994 (ACT NO. 39 OF 1994), AS AMENDED

The Minister of State Security, Dr. Siyabonga C. Cwele, has, after consultation with the Joint Standing Committee on Intelligence, made regulation in terms of section 6 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).

The following regulations in the Schedule, which relate to electronic communications security needs analysis, apply to organs of State and are hereby published in terms of section 101(3) of the Constitution of the Republic of South Africa, 1996, read together with section 6(4) of the National Strategic Intelligence Act, 1994.

STAATSVEILIGHEIDSAGENTSAP**AANVANG VAN DIE ELEKTRONIESE KOMMUNIKASIE SEKURITEITS BEHOEFTE-ONTLEDING REGULASIE IN TERME VAN ARTIKEL 6 VAN DIE WET OP NASIONALE STRATEGIESE INTELLIGENSIE, 1994 (WET NR 39 VAN 1994, SOOS GEWYSIG**

Die Minister van Staatsveiligheid, Dr. Siyabonga C. Cwele het na konsultasie met die Gesamentlike Staande Komitee vir Intelligensie die regulasies uitgevaardig in terme van Artikel 6 van die Wet op Nasionale Strategiese Intelligensie, (Wet nr 39 van 1994).

Die volgende regulasies in die skedule, met betrekking tot elektroniese kommunikasie sekuriteits behoefte-ontleding, is van toepassing op staatsorgane en word hiermee gepubliseer in terme van Artikel 101(3) van die Grondwet van die Republiek van Suid-Afrika, 1996, in ooreenstemming met Artikel 6(4) van die Wet op Nasionale Strategiese Intelligensie, 1994.

SCHEDULE

THE ELECTRONIC COMMUNICATIONS SECURITY NEEDS ANALYSIS REGULATIONS, 2014

PREAMBLE

The objective of the National Strategic Intelligence Act, 1994 (Act 39 of 1994 (NSIA), as amended by the General Intelligence Laws Amendment Act, 2013 (Act 11 of 2013), amongst others, is to identify, protect and secure critical electronic communications and infrastructure of organs of state against unauthorised access or technical, electronic or any other related threats.

Section 2(b) of the NSIA mandates the Minister of State Security, in a prescribed manner and in regard to communications and cryptography, to identify, protect and secure critical electronic communications and infrastructure of organs of state against unauthorised access or technical, electronic or any other related threats.

Section 3(8) of the NSIA obliges the head of an organ of state, at the request of the Agency and in a prescribed manner, to submit to the Agency an analysis of the electronic communications security needs of the organ of state under his or her administration.

These Regulations prescribe the manner in which a head of an organ of state must submit to the Agency, or his or her delegate at its request, an analysis of the electronic communications security needs of the organ of state under his or her administration.

At the instance of the Agency, all heads of organs of state shall submit relevant information regarding the state of their Information Communication Technology Security needs by no later than the date as may be stipulated and in accordance with the prescribed format.

1. DEFINITIONS

‘agency’ means State Security Agency established in terms of section 3 of the Intelligence Services Act, 2002 (Act 65 of 2002), as amended by the General Intelligence Laws Amendment Act, 2013 (Act 11 of 2013).

‘communications’ means communication as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act 70 of 2002).

‘critical electronic communications’ means electronic communications held by organs of state which are necessary for the protection of the national security of the Republic.

‘critical electronic communications infrastructure’ means electronic communications products or systems used to transmit and store or to store critical electronic communications.

‘Minister’ means the Minister of State Security.

‘organ of state’ means organ of state as defined in section 239 of the Constitution.

‘prescribe’ means prescribe by regulation.

‘joint standing committee’ means the Joint Standing Committee on Intelligence established by section 2 of the Intelligence Services Oversight Act, 1994 (Act 40 of 1994).

2. OBJECTIVES OF THE ELECTRONIC COMMUNICATIONS SECURITY NEEDS ANALYSIS

- 2.1 The main objective of the electronic communications security needs analysis is to ensure that critical electronic communications and infrastructure of organs of State are identified, protected and secured.
- 2.2 To this end, the Agency shall undertake an electronic communications security needs analysis to determine the electronic communication security status and the required protection of critical electronic communication and infrastructure of all organs of the state.
- 2.3 The Agency may procure the services of an external auditing and/or project management professional to assist it with the needs analysis of electronic communications of organs of state, if such assistance will not jeopardise national security and national interest of the Republic.
- 2.4 The electronic communications security needs analysis entails an information gathering exercise whereby a needs analysis in the form of a request for information contained in a questionnaire shall be distributed to all organs of state. This requires organs of state to initially provide a written response to a series of questions contained in the questionnaire. If necessary, the Agency will complement written responses to the questionnaire through on-site or off-site interviews.
- 2.5 Upon receipt of the written responses to the questionnaire and/or on-site interviews or off-site interviews, the Agency shall perform a preliminary electronic communications security needs analysis of each organs of state. Should it so determine, the Agency shall conduct a more detailed assessment of the relevant organs of state's individual electronic security status, including but not limited to-
- 2.5.1 On-site inspection and testing of its current electronic communications infrastructure;

2.5.2 Interviews with relevant officials within a particular organ of state regarding its security policies, procedures and standards, security management structures, and security custodianship, roles and responsibilities;

2.5.3 Any other methodology required for ascertaining the effectiveness of the network perimeter security;

in order to determine the electronic communications security systems, products and services and the functionality and interoperability levels of the products currently used by an organ of state.

2.6 Each organ of state will be individually assessed based on its compliance with certain electronic communications security requirements. Once the analysis is completed, the Agency will submit its recommendations to the relevant organ of state in the form of a report with findings and recommendations.

3. NATURE OF THE REQUEST

The request comprises the following documents ('the request documents')-

3.1. A covering letter addressed to all heads of organs of state;

3.2. A questionnaire compiled by the Agency; and

3.3. These regulations, which set out the procedure and format of the response.

4. PROCEDURE FOR THE DISTRIBUTION OF THE REQUEST- DOCUMENTS

4.1. The Director General of the State Security Agency shall provide each organ of state with the request-documents soon after the publication of these regulations and thereafter every two years in accordance with the electronic

communications security needs analysis plan for organs of state as approved by the Director-General from time to time.

- 4.2. The request documents shall be available in any format as may be prescribed by the Director-General of the Agency for distribution thereof within the relevant organ of state under the supervision of the head of organ of state.
- 4.3 The request documents will be addressed to the head of the relevant organ of state who shall be responsible for ensuring that all information required for purposes of this electronic communications security needs analysis is kept strictly confidential.

5. PROCEDURE FOR THE COMPLETION OF THE REQUEST- DOCUMENTS

- 5.1. The head of each organ of state shall upon receipt of the request-documents identify the persons (including third party vendors) responsible for providing the relevant organ of state with electronic communication security products and/or maintenance and repair services. The person who shall assist the organ of state in the completion of the questionnaire shall have the required security clearance.
- 5.2. The head of the organ of state shall ensure that the questionnaire shall be made available only to those persons within the relevant organ of state responsible for the provision of electronic communication security services and who have the required security clearance certificate.
- 5.3 Should the Agency approve the list of persons responsible for providing the services and/or products (after having obtained a security clearance certificate issued by the State Security Agency) in accordance with the National Strategic Intelligence Act, 1994 (Act 39 of 1994), it will promptly communicate this to the head of an organs of state, who will in turn instruct the relevant person to commence answering the section(s) of the questionnaire to which their specialisation pertains.
- 5.4. Should the Agency decline any or all of the persons contained on the list referred to in 5.1 (after failing to have obtained a security clearance certificate

issued by the State Security Agency) in accordance with the National Strategic Intelligence Act, 1994 (Act 39 of 1994), it will communicate this to the relevant head of the organ of state and proceed with arranging a tele-survey or an on-site or off-site interview in the manner set out in paragraph 8.

- 5.5 The head of the organ of state shall ensure that the request-documents shall be made available only to those persons within the relevant organ of state responsible for the provision of electronic communication security products and/or maintenance and repair services forming the subject of this security needs analysis who have a security clearance certificate issued by the Agency.
- 5.6 Where no person within a particular organ of state is specifically designated to provide services, and/or products, the head of the organ of state shall without delay inform the Director-General of State Security Agency of same, and who will proceed to make arrangements with the relevant organ of state to conduct either a tele-survey or an on-site or off-site interview in the manner prescribed in paragraph 6.
- 5.7. The persons responsible for completing the questionnaire (or any part thereof) shall ensure that they provide the Agency with such written or electronic information so as to allow the Agency to adequately assess the security status of the relevant organ of state.
- 5.8. The Agency may establish a helpdesk to address telephonic queries from organs of state on the questionnaire in case of unclear or ambiguous sections or questions. To the extent that a particular section or question in the questionnaire is unclear or ambiguous, the head of the relevant organ of state or a person duly authorised by him or her, shall either address to the Director-General, or the relevant official in the Agency in writing and in sufficient detail the particular query raised by the questionnaire or call the helpdesk for assistance.
- 5.9. Should the Agency take longer than a period of 3 (three) days to resolve a particular query, the submission date shall be extended by such period taken

by the Agency to resolve the query, commencing the date of receipt of the query by the Agency and terminating the date of communication of a resolution of the query to the relevant organ of state ('the extension period).

- 5.10 Organs of state are encouraged to provide with their response any documentation (written or electronic) that might supplement and/or clarify such response.

6. FORMAT FOR COMPLETING REQUEST DOCUMENTS

- 6.1 The head of an organ of state shall ensure that he or she submits to the Agency a completed questionnaire ('the response'), not later than three (3) months from the date of receipt of the questionnaire provided unless approval for an extended period is granted by the Agency.
- 6.2 To the extent that an organ of state provides the Agency with a written response to the request-documents, such response shall be delivered to the Agency. Electronic documents shall only be permitted provided they are delivered by hand to the Agency on an electronic device or storage.
- 6.3 The response must be contained in a new document and must clearly indicate the specific question number contained in the questionnaire to which it pertains.
- 6.4 Organs of state are required to complete every question contained in the questionnaire, and must not state in its response that a question contained in the questionnaire is "not applicable". Rather, organs of state must provide a written explanation as to why a particular question does not relate to them specifically.
- 6.5 Organs of state are encouraged to provide with their response any documentation (written or electronic) that might supplement or clarify such response.

7. PROCEDURE FOR THE SUBMISSION OF THE REQUEST-DOCUMENTS

- 7.1. The head of the organ of state must ensure that the response together with any supporting documentation (written or electronic) are returned to the Agency by the submission date and are completed in the prescribed format.
- 7.2. Organs of state shall be entitled to request in writing from the Agency an extended submission date, provided they motivate in detail the reasons for such extension, and provided further that they request such extended submission date no later than 1 (one) month prior to the initial submission date. The Agency shall ensure that it adjudicates such requests fairly and shall process and communicate its decision to the relevant organ of state timely.
- 7.3. Subject to any obligations under national legislation, the Agency acknowledges the sensitivity of the information contained in the response and any supporting documentation received from an organ of state and accordingly undertakes to ensure that these documents are kept strictly confidential and shall not be disclosed to any third party, without the Agency having entered into the necessary confidentiality agreements with such party.
- 7.4. All the responses must be delivered in the manner prescribed by the Director - General of the Agency.
- 7.5. The respondents will be notified of any changes in the delivery address should this occur.

8. THE PROCEDURE FOR ON-SITE AND OFF-SITE INTERVIEWS

- 8.1. Where necessary, the Agency shall conduct either an on-site or off-site interview of the organ of state. This shall be arranged with the head of the organ of state at a time convenient to both parties.
- 8.2. An organ of state shall provide the Agency with reasonable access to their premises as well as all relevant records, data, and other such supporting documents necessary for purposes of the electronic communications security

needs_analysis. Similarly, the Agency shall take all reasonable measures not to disturb or unduly interfere with the day-to-day operations of the relevant organ of state in conducting any on-site interview or inspection.

- 8.3 If after a preliminary needs analysis, the Agency decides to conduct any of the methodologies referred to in 2.5, the provisions of 8.1 and 8.2 shall apply mutatis mutandis to such methodology.

9. DEPARTURE

- 9.1 The Agency may as far as it is reasonable and in the interest of national security and national interests, depart or condone non-compliance with the procedures outlined in these regulations whenever, in its opinion, it is appropriate to do so.

10. INQUIRIES

- 10.1. Any written queries regarding the request documents or other inquiries must be addressed in writing to-

The DIRECTOR – GENERAL

State Security Agency

Private Bag X87

PRETORIA

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- 11.1 The Agency reserves the right to report any person who fails to comply with the provisions of these Regulations to the Auditor General.

12. DATE OF COMMENCEMENT

- 12.1 These regulations shall be called “Electronic Communications Security Needs Analysis Regulations” and come into operation on 29 January 2014.
- 12.2 These Regulations hereby repeal the “COMSEC Security Audit Regulations” published on the 20th of October 2004 in the Government Gazette under notice No: 26914 volume 472 .

No. R. 63

29 January 2014

MINISTRY OF STATE SECURITY**STATE SECURITY AGENCY****COMMENCEMENT OF THE INTELLIGENCE SERVICES REGULATIONS, 2014
MADE IN TERMS OF SECTION 37 OF THE INTELLIGENCE SERVICES ACT, 2002
(ACT NO. 65 OF 2002), AS AMENDED**

The Minister of State Security , Dr. Siyabonga C. Cwele, has, after consultation with the Joint Standing Committee on Intelligence, made regulations in terms of section 37 of the Intelligence Services Act, 2002 (Act No. 65 of 2002).

The following regulations in the Schedule, which relates to the recruitment, selection, appointment and termination of service, cadet recruitment and training, veterans association and restriction of former members, and vetting apply to the members of the public and are hereby published in terms of section 101(3) of the Constitution of the Republic of South Africa, 1996, read together with section 37(5) of the of the Intelligence Services Act, 2002.

No. R. 63

29 Januarie 2014

STAATSVEILIGHEIDSAGENTSAP**AANVANG VAN DIE INTELLIGENSIEDIENSTE REGULASIES, 2014 UITGEREIK IN TERME VAN ARTIKEL 37 VAN DIE WET OP INTELLIGENSIEDIENSTE, 2002 (WET NR 65 VAN 2002), SOOS GEWYSIG**

Die Minister van Staatsveiligheid, Dr. Siyabonga C. Cwele, het na konsultasies met die Gesamentlike Staande Komitee vir Intelligensie die regulasies uitgevaardig in terme van Artikel 37 van die Wet op Intelligensiedienste, 2002 (Wet nr 65 van 2002).

Die volgende regulasies in die Skedule het verband op werwing, seleksie, aanstelling en beeindiging van diens, kadet-werwing en opleiding, 'n veteraan vereniging, beperkings op voormalige lede en keuring en is van toepassing op lede van die publiek en word hiermee gepubliseer in terme van Artikel 101(3) van die Grondwet van Suid-Afrika, 1996, in samehang met Artikel 37(5) van die Wet op Intelligensiedienste, 2002.

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INTELLIGENCE SERVICES REGULATIONS, 2014

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CHAPTER I

GENERAL PROVISIONS

1. PRELIMINARY

(1) Short Title and Commencement

These Regulations are called the Intelligence Services Regulations, 2014, and will come into operation on 29 January 2014.

(2) Definitions

- (a) These Regulations must be read in conjunction with the Intelligence Services Act, 2002 (Act 65 of 2002) and the General Intelligence Laws Amendment Act, 2013 (Act 11 of 2013);

- (b) In these Regulations, unless the context indicates otherwise –

“**access control**” means the process by which access to a particular area is controlled, or restricted to authorised personnel only;

“**Act**” means the Intelligence Services Act, 2002 (Act 65 of 2002) as amended by the General Intelligence Laws Amendment Act, 2013 (Act 11 of 2013).

“**active members**” means members who are employed by the Agency on a permanent basis and therefore exclude retired members;

“**affirmative action measures**” includes but is not limited to measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the Agency;

“**State Security Agency**” means the Agency as referred to in section 3(1) of the Intelligence Services Act, 2002 as amended by section 1(a) of the General Intelligence Laws Amendment Act, 2013;

“**applicant**” means a person or a member who applies for employment and/or another post in the Agency;

“**appointment**” means employment;

“**approved establishment**” means the posts that the Minister has approved to carry out the core and support functions of the Agency;

“**basic salary**” means the salary notch applicable to a member allocated per job level range within an occupational band according to the remuneration management system approved by the Minister;

“**benchmark**” means the initial evaluation of a job within the Agency;

“**black people**” is a generic term, which means Africans, Coloureds and Indians;

“cadet” means a young person from a recognised tertiary institution or high school, recruited to study at the Agency’s Training Academy but who is currently not a member;

“calendar month” refers to all the days in a month including weekends and public holidays, from the first to the last day of the month;

“child” means a member’s natural child, or a stepchild or legally adopted child, who has not reached the age of 21 years, or a child who has been placed in the legal custody, recognised by law, of the member, his or her spouse or partner;

“communication security” means direct or indirect communication;

“competence” means the blend of knowledge, skills, behaviour and aptitude that a person applies in the working environment, which indicates the person’s ability to meet the requirements of a specific post;

“consecutive days” means calendar days including weekends and public holidays;

“consultation service” refers to the medical consultation service including a theatre and dispensary that provides in-house services to persons entitled to OPMED benefits;

“continuation member” means a member, with his or her registered dependants, if any, who retains his or her membership status with OPMED without prejudice or limitation of a continued period of membership in the event of his or her retirement from the Agency or due to his or her employment being terminated by the Agency on account of reaching the retirement age, or having been declared medically unfit or due to termination of employment with a severance package, on condition that OPMED membership be retained;

“council” means a Staff Council and Consultation Council established in terms of these Regulations;

“cover member” means a member of the Agency whose relationship with the Agency is completely concealed and who functions under deep cover for operational purposes in cases where there is a need for extreme liability, danger to life or a high risk for the exposure of countering activities;

“day” means a working day;

“day of rest” with regard to a member who does not usually work on such a day, a Saturday, Sunday or a public holiday, and in the case of a member who usually works on a Saturday, Sunday or a public holiday, any other day on which the member, instead of such a day, is generally exempted from work;

“dependant” means spouse, partner, child or parent in respect of whom the member is liable for family care and support;

(i) for the purpose of OPMED, “dependant” refers to –

(aa) a spouse or partner who is not a member or dependant of another medical scheme;

- (bb) a child;
 - (cc) a member's child of 21 years and older, for whom the member is liable for family care and support, and who is not a member or dependant of another medical scheme;
 - (dd) a member's child who is a student at a school or other educational institution within the Republic of South Africa, or a child of a member who is placed abroad for official purposes where the child is in a school or educational institution of that specific country, up to the age of 26 years and who is not a member or dependant of another medical scheme;
 - (ee) a member's child who is unfit for the open labour market due to a mental or physical disability and who is not a member or dependant of another medical scheme;
 - (ff) the immediate family of a member in respect of whom the member is liable for family care and support, and who is not a member or dependant of another medical scheme;
 - (gg) such other person(s) who is (are) recognised by the OPMED management control board as a dependant(s) for purposes of the medical scheme rules;
- (ii) for the purpose of resettlement transfers and sessional assistance within the Agency, "dependant" refers to –
- (aa) a partner or spouse of a member;
 - (bb) a child;
 - (cc) a family member who resides permanently with the member, who is dependent on such a member and who receives a total income that, from all sources, does not exceed the basic social pension;

"designated groups" means black people, women and people with disabilities;

"direct communication" means –

- (i) an oral communication, other than an indirect communication, between two or more persons which occurs in the immediate presence of all the persons participating in that communication; or
- (ii) an utterance by a person who is participating in an indirect communication, if the utterance is audible to another person who, at the time that the indirect communication occurs, is in the immediate presence of the person participating in the indirect communication;

"Director-General" means the head of the Agency;

"dispute" includes an alleged dispute;

"document" or **"documentation"** means –

- (i) any note or writing, whether produced by hand or printing, typewriting or any other similar process;
- (ii) any copy, plan, picture, sketch, photographic or other representation of any place or article; or
- (iii) any disc, tape, card, perforated roll or other device in which or on which sound or any signal has been recorded for reproduction;

“employment policy” includes, but is not limited to –

- (i) recruitment procedures, advertising and selection criteria;
- (ii) appointment(s) and the appointment process;
- (iii) job classification and grading;
- (iv) remuneration, employment benefits and terms and conditions of employment;
- (v) job description;
- (vi) the working environment and facilities;
- (vii) training and development;
- (viii) performance evaluation;
- (ix) promotion;
- (x) transfer;
- (xi) demotion;
- (xii) disciplinary measures other than discharge; and
- (xiii) discharge;

“family care and support” means a liability for financial support enforceable by a court of law;

“family responsibility” means the responsibility of a member in relation to his or her spouse or partner and his or her children and/or his or her parent(s);

“financial institution” means a legitimate registered bank or building society within the Republic of South Africa;

“fixed establishment” means the total number of posts created for the normal and regular requirements of the Agency and any other such components that are administratively linked to the Agency;

“forum” means the Constituency Forum and Organisational Staff Forum established in terms of these Regulations;

“Guarantee Scheme” means a guarantee issued to a financial institution in favour of a member or a collateral investment made by the Agency in favour of a member and assigned to a financial institution, to enable a member to obtain a loan for the purpose of buying property without himself or herself having due responsibility;

“gift” means any matter, object, money, reward or favour presented to a member in his or her capacity as a member of the Agency over and above the salary and benefits payable to the member;

“grade” means the relative value of a particular job reflected by the job weight, which is linked to a salary range in a salary scale used in the Agency;

“grievance procedure” means a process of addressing a complaint and resolving a dispute by a member against his or her supervisor or another member;

“Group Assurance Scheme” means the Agency’s Group Assurance Scheme constituted and formulated by the Rules of the Group Policy applicable to the Agency;

“Head Office” is defined for the purpose of resettlement transfers as all the offices situated in the greater metropolitan area of a town or city and not an individual headquarters. Transfer from one Head Office to another office in the same metropolitan area must therefore not be regarded as a resettlement transfer;

“health care provider” means all medical and health providers registered with the SA Medical Association and who are entitled to practise in terms of section 17 of the Health Professions Act, 1974 (Act 56 of 1974);

“HIV” means the Human Immunodeficiency Virus;

“housing allowance” refers to an amount payable to a member of the Agency as a fringe benefit to assist him or her to obtain residential accommodation;

“household” is defined as the member and his or her dependants;

“immediate family” means a family member such as a member’s father, mother, brother, sister, spouse or partner for whom the member is liable for family care and support and who is financially dependent on the member;

“indirect communication” means the transfer of information, including a message or any part of a message, whether -

- (i) in the form of –
 - (aa) speech, music or other sounds;
 - (bb) data;
 - (cc) text;
 - (dd) visual images, whether animated or not;

(ee) signals; or

- (ii) in any other form or in any combination of forms transmitted in whole or in part by means of a postal service or a telecommunication system;

“inherent requirements of a job” means the requirements determined by the job as well as the competencies needed by a member in order to carry out the job;

“internal positions” means vacant positions advertised within the Agency to enable the career advancement of active members;

“internal transfer” means the appointment of a member to a new or vacant position, or the transfer to another structure on a permanent basis within the Agency;

“interdepartmental transfer” means the permanent transfer of a member from the Agency to another Public Service Department;

“JE Manager” means the Job Evaluation Manager System;

“job evaluation administrator” means a member trained in the job evaluation system and appointed as such within the structure responsible for the evaluation of all the jobs within the Agency;

“job evaluation facilitator” means a member trained in the job evaluation system and appointed by a general manager to represent the relevant structure in job evaluation and related activities;

“job evaluation” means a process of assessing the relative worth of jobs within the Agency by applying an objective and reliable rating system;

“job weight” means the numerical value assigned to reflect selected characteristics of a job measured by a job evaluation instrument;

“Labour Relations Act” means the Labour Relations Act, 1995 (Act 66 of 1995);

“learnership programme” means learnership programme as defined in the Skills Development Act, 1998 (Act 97 of 1998);

“leave cycle” means a period of twelve months that starts from the month a member joined the Agency or in the case of a transferred member, from the date the member joined the Public Service;

“legal practitioner” means a person who is admitted to practise as a lawyer or advocate in the Republic of South Africa;

“level” means salary range or grade;

“manager” means the head of a component, division or unit in the Agency and any other such components that are administratively linked to the Agency unless specific reference is made to the positional appointment as manager on the M3 level;

“medical benefits” means benefits to which a member and his or her registered dependants are entitled to, subject to the restrictions imposed by the OPMED rules;

“medical examination” means the medical test of an applicant in order to determine his or her medical status in relation to the requirements of a specific position;

“medical necessity” means the norm to evaluate a health care service in order to determine whether it is medically appropriate and necessary to meet basic needs, appropriate for a given diagnosis or condition and cost-effective for the given condition; appropriate to be delivered in the designated setting, consistent with the benefits and exclusions of the medical scheme, and consistent with the type, frequency and duration of treatment with scientifically based guidelines of medical practice and quantifiable medical value;

“Medical Schemes Act” refers to the Medical Schemes Act, 1998 (Act 131 of 1998), as amended;

“medical scheme contribution” means the monthly amount, exclusive of interest, due by an OPMED member as his or her membership fee as well as for his or her registered dependants;

“medical scheme rules” means the rules of OPMED including those for conducting the business of the scheme (appendixes and schedules) and any other provision relating to the benefits which may be granted, as well as the contributions due as determined and revised by the OPMED Management Control Board;

“medical test” means any test, question, inquiry or other means designed to ascertain, or which has the effect of enabling the Director-General to ascertain, whether a member has any medical condition;

“medical unfitness” means that currently and for the foreseeable future the member's physical or mental condition is such that he or she cannot maintain a satisfactory level of performance or cannot perform his or her duties except with extreme pain and discomfort, or with treatment or medication that poses a risk to his or her health, and that subject to the member's seniority and training, no reasonable alternative placement exists: Provided that this condition is of such a nature that the efficiency and effectiveness will be adversely affected for an unforeseeable period;

“member”, as contemplated in Chapter XVI and for the purpose of consultation, refers to any member of the Agency who is not a senior member or a member of the labour relations, legal services, internal audit and management services function;

“misconduct” means misconduct as defined in Appendix A of Chapter XVIII;

“nominee” means a person who is or was, in writing, nominated by a member as a beneficiary with regards to the Group Assurance Scheme benefits;

“official subsidised transport” refers to official transport provided for members of the Agency who do not have transport to and from work in areas where no other means of public transport exists, to enable them to commute from a central point to and from work;

“OPMED” means Optimum Medical Scheme;

“OPMED management committee” means the committee that is appointed by the Agency to manage and control the OPMED Scheme;

“OPMED Management Control Board” refers to the persons appointed and/or elected in accordance with the OPMED rules to manage and control the affairs of OPMED;

“orphan” means the child of a deceased member of whom both parents have passed away, and who is classified as such;

“partner” means an unmarried person irrespective of gender with whom the member has a relationship akin to marriage and who resides permanently with the member, sharing common assets;

“people with disabilities” means people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment;

“personnel security” means any condition created by the deliberate creation, implementation and application of security measures in order to ensure that a person who obtains access to classified information and/or restricted premises is security competent;

“physical security” means a condition and/or situation created by the deliberate creation, implementation and application of physical security measures for the protection of lives, property and information;

“political organisation” means a party, body or movement with political aims;

“poor performance” means any performance which is below the appropriate standards arising from any source other than pregnancy or medical unfitness or misconduct;

“pregnancy” means pregnancy, termination of pregnancy and any medical circumstances related to pregnancy;

“probation period” means a period within which a member, who was appointed in a particular position, is evaluated and assessed in order to determine his or her suitability for permanent appointment;

“psychometric testing” means the assessment of an applicant in order to determine the applicant’s suitability in terms of personality or task requirement of a specific position;

“public holiday” means any day that is a public holiday in terms of the Public Holidays Act, 1994 (Act 36 of 1994);

“representativeness” means the extent to which the posts filled on the fixed establishment broadly reflects the composition of the South African population, with reference to race, gender and disability;

“record of poor performance” means any available record of a member’s previous poor performance for which he or she was found guilty in terms of Chapter XIX;

“salary range” means a set of salaries that forms part of a salary scale linked to a specific grade and, by extension, a set of job weights;

“salary scale” means a range of salaries from a minimum to a maximum as salary for the Agency, an occupational group or a unit within the Agency with specific amounts denoted as the beginning and end of salary ranges or a fixed amount or notch;

“SCAB” means the Security Clearance Advisory Board;

“secondment” means the temporary transfer of a member from Agency to another Public Service Department;

“security” means any condition and/or situation created by the deliberate creation or implementation and application of security measures in order to protect persons, property or information;

“security clearance certificate” means an official document indicating the degree of security competence of a person;

“security competence” means the ability of a person to act in such a way that he or she does not cause classified information or material from being disclosed to an unauthorised member or person, in this way prejudicing or endangering the security or interests of the Agency or the State;

“senior member” as contemplated in Chapter XVI, refers to any member of the Agency who functions in a post at the level of M3 to M6 and / or the equivalent posts at the S and P level.

“service of documents” means the personal handing over of documents to a member concerned by the procurator or a person assigned thereto: Provided that where all reasonable attempts to effect service have failed, a notice may be left with a suitable person at the member’s last known address, or merely left at such premises if no such person is available;

“session duty” refers to parliamentary duty performed at the office of the Minister of State Security in Cape Town as required by the Minister from time to time, and in accordance with the Department of Public Service and Administration’s policy on session duty;

“spending center” refers to a structures linked to the Agency for administrative, technical and logistical support and whose accounting officer is the Director-General of the Agency, namely, the Ministry for State Security, the National

Intelligence Coordinating Committee, the Intelligence Council on Conditions of Service and the Office of the Inspector-General of Intelligence.

“spouse” means the registered husband or wife of a member to whom the member is married in terms of any law or custom recognised by law in the Republic of South Africa;

“Strategic Executive Management” means Director-General, Deputy Director(s)-General or equivalent and general managers within the Agency in terms of Chapter XVI;

“suitably qualified person” means a person qualified for a position as a result of formal qualifications or prior learning, relevant experience or the capacity to acquire the ability to do the job within reasonable time;

“supervisor” means the immediate supervisor of a member or member that supervises the function of the member at a given time;

“Treasury Regulations” means the Treasury Regulations made in terms of the Public Finance Management Act, 1999 (Act 1 of 1999);

“vetting investigation” means the prescribed investigation followed in determining a person’s security competence;

“vetting officer” means a member of the Agency designated by the Director-General with the authority to conduct vetting investigations to establish security competence;

“week” means a period of seven consecutive days;

“workplace right” means an entitlement constituted by the applicable legislative framework and practices in the workplace; and

any other word shall have the meaning assigned thereto in the Act.

- (c) In these Regulations, if the context of circumstances so admits or requires or unless otherwise specifically stated, the above-mentioned words and expressions shall have the meanings given to them and words importing, the singular shall be deemed to convey the plural, and *vice versa*.

(3) Statutory Authorisation

Section 37 of the Intelligence Services Act, 65 of 2002, authorises these Regulations.

(4) Scope of Application

These Regulations apply to persons, members, and to institutions governed, in terms of the Act.

(5) Repeal of Regulations and Transitional Arrangements

- (i) All Regulations issued in 2003 under the Intelligence Services Act, 2002 (Act 65 of 2002) including all amendments thereof made and issued prior to these Regulations of 2014, are hereby repealed.
- (ii) Any matter contemplated under the repealed Intelligence Services Regulations of 2003 issued in terms of the Intelligence Services Act, 2002 (Act 65 of 2002) that could be contemplated under any provision of these new Regulations, must be deemed to have been contemplated under the relevant provision of these new Regulations.

(6) Exceptional Cases

If circumstances develop which justify deviation from the provisions and measures in these Regulations, the Minister may, after a recommendation of the Intelligence Council on Conditions of Service and after consultation with the Joint Standing Committee as contemplated in **sections 22 and 37 of the Act**, under stated circumstances make such determinations, issue directives or approve that alternative provisions and measures be applied.

2. THE INTELLIGENCE COUNCIL ON CONDITIONS OF SERVICE**(1) The appointment and role of the ICCS**

- (a) The ICCS is established in terms of section 22 of the Act and its role is to provide advisory, oversight and monitoring functions on human resources matters and conditions of service.
- (b) The ICCS consists of three persons appointed by the Minister, one of whom must be the Chairperson.
- (c) The members of the ICCS must be fit and proper persons with thorough knowledge of the functioning of the Agency.
- (d) The ICCS makes recommendations to the Minister on human resources matters and improvement of salaries and fringe benefits. For purposes of making such recommendations, the ICCS performs the following functions in relation to the policies falling within its mandate contemplated in the Act:
 - (i) research;
 - ii) reviewing the policies;
 - (iii) evaluating and monitoring the implementation of such policies;
 - (iv) inviting the Director-General of the Agency, the Chairperson of the staff forum, members and any other interested party to give representations on any matter relating to the purview of its functions;
 - (v) evaluating representations made to the ICCS;
 - (vi) conferring with the Public Service Commission.

- (e) The Chairperson of the ICCS may invite the Director-General of the Agency to participate in the functioning of the ICCS: provided that the Director-General does not have voting powers.
- (f) The conditions of service of the members of the ICCS may be determined by the Minister in accordance with the conditions of service applicable to members.
- (g) The ICCS must perform its functions impartially, without bias, fear or prejudice.
- (h) The Minister may appoint members or persons to give research, administrative, logistical and technical support to the ICCS.
- (i) The Council must in consultation with the Director-General, the Chairperson of the staff forum, members and with the approval of the Minister, formulate rules and procedures to facilitate its work.
- (j) Reports prepared by the Council in the performance of its work will be submitted to the Minister.

(2) Directives to discharge the mandate of the ICCS

- a) The Director-General may, subject to the directions of the Minister, issue operational directions that spell out the process and procedures to be followed by the Agency, the Director-General and members in order to give effect to the functions of the ICCS contemplated in paragraph 2(1)(d) of this Chapter.
- b) The formulation and adoption of the operational directives contemplated in paragraph 2(2)(a) must follow the consultation process stipulated in paragraphs 2(1)(d)(iv),(v) and (vi) of this Chapter.

3. OFFICIAL TEXT

The English text is the official text of these Regulations.

4. DELEGATIONS AND RESPONSIBILITIES

(1) Application of the Regulation

- (a) To enable the Director-General to manage the Agency effectively and efficiently, the Minister must provide the Director-General with appropriate powers and authority. For the same purpose, the Director-General must empower members in the Agency by means of appropriate delegations and authorisations, where necessary.
- (b) The Minister must set measurable objectives for the Agency, optimally utilise the Agency's human and other resources and apply fair labour practices.
- (c) The Director-General must set objectives to –
 - (i) promote a strong organisational culture that reflects high standards, professionalism and moral integrity; and

- (ii) constantly improve the objectivity, timeliness and accuracy of information and the quality of either its intelligence estimates and/or its core functions, as the case may be.

(2) Delegations

- (a) If these Regulations confer a power or impose a duty upon the Minister or the Director-General, he or she may, subject to the Act -
 - (i) delegate the power to a member or authorise a member to perform the duty; and
 - (ii) set conditions for the exercise of the power or performance of duty.
- (b) The Minister must record a delegation or authorisation in writing and may incorporate it in an employment contract for the Director-General.
- (c) The delegation of power by the Minister or the Director-General, as the case may be, does not prevent him or her from exercising the power personally.

(3) Responsibilities

- (a) The Minister must uphold the applications and measures set out in these Regulations.
- (b) The Minister may not require or permit the Director-General or any other member, as the case may be, to engage in an activity or take a decision in breach of these Regulations.
- (c) The Director-General must –
 - (i) uphold the provisions of these Regulations and any other statutory obligations;
 - (ii) ensure that members within the Agency comply with these Regulations and any other statutory obligations; and
 - (iii) deal immediately and effectively with any breach thereof.

5. CHARACTER OF INTELLIGENCE

- (1) The Agency must provide evaluated information to ensure the -
 - (a) safeguarding of the Constitution;
 - (b) upholding of the individual rights enunciated in the Bill of Rights contained in the Constitution;
 - (c) promotion of the interrelated elements of security, stability, cooperation and development, both within the Republic of South Africa and in relation to Southern Africa;

- (d) achievement of national prosperity whilst making an active contribution to globally defined priorities for the well-being of humankind; and the
 - (e) promotion of the Republic of South Africa's ability to face foreign threats and enhance its competitiveness in a dynamic world.
- (2) To fulfil their mandates, the Agency must ensure that intelligence serves to -
- (a) provide policy makers with timeous, critical and unique information to warn them of potential risks and dangers;
 - (b) identify opportunities in the international environment, through assessing real or potential competitors' intentions and capabilities; and to
 - (c) assist good governance by providing honest and critical intelligence that highlights the weaknesses of government.
- (3) Intelligence must have at least all of the following attributes: accuracy, relevance, predictive capacity, and an element of warning and timeliness.
- (4) Effective intelligence requires the essential component of secrecy with a need to be sensitive to the interests and values of a democratic society.
- (5) The Agency must recruit intelligent, competitive and motivated individuals of integrity from all sectors of the South African society to become intelligence officers. This requires a multidisciplinary approach where these officers will be recruited from a diversified pool, and an assurance that the rare skill which these individuals have is retained.
- (6) The Agency must uphold the principles of integrity, objectivity and credibility. They must strive to be relevant to the maintenance, promotion and protection of national security.
- (7) The Agency must be loyal to the State and the Constitutional objectives.

6. PROFILE OF AN INTELLIGENCE OFFICER

- (1) Attributes and qualities needed by a member to be successful as an Intelligence Officer include -
- (a) faithfulness to the Republic of South Africa and the Constitution;
 - (b) obedience to the laws of the Republic of South Africa;
 - (c) disregard for a manifestly illegal order;
 - (d) respect for the norms, values and principles of a democratic society including the basic human rights of individuals;
 - (e) responsibility in the handling of information and intelligence, and the prevention, at all costs, of the unauthorised disclosure of national security interests;

- (f) the ability to facilitate an early warning system to assist policy makers in identifying harmful trends;
 - (g) the ability to determine the cause and effect in order to find links in the chain of evidence, discerning between fact and fiction and distinguishing between essentials and non-essentials;
 - (h) inquisitiveness, ingenuity, ability to attend to detail and express ideas clearly, correctly, concisely and completely;
 - (i) facilitation of other opinions, ways of thinking and behaviour as well as understanding the reason for other people's thought processes and conduct;
 - (j) flexibility and open-mindedness;
 - (k) principal interests in serving intelligence while displaying moderation with regard to promoting own ambition and aspiring for personal reward;
 - (l) compliance with the "need to know" principle;
 - (m) integrity, trustworthiness, humanity and compassion;
 - (n) strategising, displaying intuition and predictiveness;
 - (o) knowledge of practical psychology to interpret an operational situation;
 - (p) identification and keeping track of, and advising on political, economic, environmental and social developments nationally and internationally;
 - (q) assistance in the development of effective control systems in order to maximise the collection of state revenue and reducing corruption, white-collar crime and mismanagement within state departments and public-sector agencies;
 - (r) the ability to facilitate early preventive action and thereby avoiding unnecessary crises and devastating human cost;
 - (s) the ability to memorise faces, events and places;
 - (t) great patience;
 - (u) proficiency in foreign languages in order to conduct operational tasks comfortably and readily;
 - (v) courage and the ability to take risks;
 - (w) simulating rage, or impatience, or sympathy, without losing control of emotions, hiding real feelings as well as assuming a false appearance, if needed;
 - (x) conduct that upholds the integrity of the Agency.
- (2) To engender the resolve to have an intelligence officer with the qualities outlined above, the conditions of service of the Agency need to compare favourably with national and international best practices.

7. DRESS CODE

- (1) Members of the Agency must be appropriately and suitably dressed for each specific occasion.
- (2) The Director-General must implement measures to ensure that members' dress, grooming and personal hygiene are appropriate to the work situation.
- (3) It must be the responsibility of supervisors to ensure consistency in compliance with the Agency's dress code policy.

CHAPTER V

RECRUITMENT, SELECTION, APPOINTMENT AND TERMINATION OF SERVICE

1. PURPOSE

The purpose of this Chapter is to specify the -

- (a) requirements and procedures for recruitment, selection, appointment and termination of service in the Agency; and
- (b) the conditions of service applicable to those persons recruited, selected, appointed and/or whose services are terminated in the Agency, except those conditions relating to salaries, allowances and related benefits.

2. APPLICATION OF THE REGULATION

(1) The following are fundamental aspects –

- (a) accessibility - all positions within the Agency must be filled on a basis of competition, and must therefore be advertised openly. Requests to waive advertising procedures and/or to appoint by invitation must be referred to the Director-General for approval;
- (b) accountability - the Director-General is accountable and the authority for recruitment and selection is vested with him or her;
- (c) equity - measures must be implemented to ensure that human resource practices are free from discrimination, invisible barriers and unjustness, which will impede equal employment opportunities;
- (d) fairness - actions and decisions must be objective, consistent and without prejudice;
- (e) transparency - recruitment and selection processes in the Agency must be open, transparent and subject to internal scrutiny and audit;
- (f) professionalism - recruitment and selection processes must be conducted professionally, competently and depict the highest ethical standards.

(2) Recruitment for rare or scarce skills in the competitive market must require the use of both advertising and headhunting.

(3) Recruitment and selection within the Agency must be guided and informed by a properly instituted human resource plan, derived from the Agency's strategic planning processes.

(4) All matters relating to the filling of positions within the Agency must be coordinated and handled by the structure responsible for recruitment and selection within the Agency.

3. REQUIREMENTS FOR APPOINTMENT

- (1) Any person may apply for appointment in the Agency if the person –
 - (a) is a South African citizen;
 - (b) is at least eighteen (18) years old;
 - (c) is mentally and physically fit to perform the functions required by the Agency;
 - (d) meets the educational standards determined by the Agency;
 - (e) meets the security requirements determined by the Agency;
 - (f) is prepared to affirm and uphold the Declaration of Allegiance;
 - (g) is prepared to undergo training as may be required from time to time; and
 - (h) is prepared to be subjected to the Code of Conduct for Intelligence Workers, and all applicable regulations and directions of the Agency.
- (2) An applicant may not be appointed in the Agency, unless he or she has successfully undergone the required medical testing, psychological testing and any other related assessments and examinations as may at the time of application reasonably be required by the Agency.
- (3) The Director-General may, subject to Chapter XV, issue directives on the tests and assessments required for various occupational groups.
- (4) An applicant's profile must be aligned with the desired attributes of an Intelligence Officer contemplated in Chapter I.
- (5) The Minister may after consultation with the Director-General issue guidelines on the recruitment and appointment of Deputy Director(s)-General, general managers, managers and members on equivalent post levels, and members to be posted to foreign offices.

4. APPLICATION FOR APPOINTMENT

- (1) When applying for a position in the Agency, the applicant must -
 - (a) duly complete the application form;
 - (b) submit satisfactory proof of citizenship;
 - (c) submit satisfactory proof of age;
 - (d) submit satisfactory proof of having attained the required educational and training standard;
 - (e) submit the information as requested to facilitate the vetting;
 - (f) submit satisfactory documentary proof of the applicant's matrimonial or partnership status, as well as parenthood of natural or adopted children; and

- (g) any other documentation that may be required from time to time by the Agency.
- (2) A member of the Agency may apply for an advertised post within the Agency for which he or she is eligible in terms of inherent requirements for the job: Provided that where a post is at a higher level the member must have completed at least a period of one (1) year in his or her current post.
- (3) A member who intends to apply for another post must notify his or her current supervisor prior to such an application.
- (4) Where members of the Agency are headhunted or talent spotted, the headhunting or talent spotting management must inform the management of the affected member: Provided the conditions stipulated in regulation 4(2) are observed.
- (5) Whenever an applicant is required to submit a document as proof of a fact and is unable to submit the original or a certified copy of the document, he or she may submit a sworn or confirmed affidavit in affirmation of the fact to be proved and state the reason for the unavailability of the original or certified copy: Provided that the Director-General may take steps to verify the contents of such documentation.

5. **FILLING OF POSTS**

A process contemplated in Chapter II must precede the filling of newly created or existing vacant posts.

6. **METHODS OF RECRUITMENT**

(1) **Advertising**

- (a) Vacant posts may be advertised both internally within the Agency and externally, with a specific job level indicated. Preference must be given to members.
- (b) The Director-General may waive advertising procedures, and by invitation appoint a person to fill a post according to the provisions contemplated in regulation 8(3).
- (c) The advertisement must specify the requirements and criteria set for the post.
- (d) The structure responsible for recruitment and selection within the Agency must be responsible for the compilation of the advertisement, in consultation with the relevant line management.
- (e) Care should be taken not to include any potentially discriminating criteria in the advertisement of posts.
- (f) The closing date for applications must allow sufficient time for potential applicants to receive relevant information on the post, and to submit their applications within the given period.
- (g) Applications must be forwarded and registered by the structure responsible for recruitment and selection within the Agency. The relevant structure must acknowledge receipt of all applications.

(2) **Headhunting**

- (a) Headhunting as a method of recruitment may be used simultaneously with advertising according to regulation 6(1).
- (b) Headhunting measures may be used to identify and invite a number of applicants with specific relevant skills, which are not readily available in the open market.
- (c) The Agency may utilise the services of registered and security-cleared recruitment consultancies to reach a targeted pool of persons, and to enhance the headhunting capacity.

(3) **Talent spotting**

Talent spotting may be utilised to identify persons with specific talents and skills for recruitment.

7. **SELECTION PROCESS**

- (1) The selection process must consist of the following three (3) phases –
 - (a) pre-selection;
 - (b) *selection; and*
 - (c) post-selection.
- (2) The General Manager responsible for human capital must ensure the co-ordination of the three selection phases and submission of reports to the Appointment and Selection Board for processing.
- (3) The pre-selection phase consists of –
 - (a) shortlisting;
 - (i) this must take place as soon as is possible after the closing date for the submission of applications;
 - (ii) the structure responsible for recruitment and selection must conduct a preliminary shortlisting of applicants;
 - (iii) the interview panel must meet to plan the selection criteria prior to the interviews.
 - (b) reference and preliminary security checks on short-listed applicants prior to interviews.
- (4) The interview panel provides the requirements and criteria set for the post to all assessment units.
- (5) The interview panel must be constituted prior to the commencement of the selection process.
- (6) The interview panel must be representative in terms of gender and race, and consist of a member from –

- (a) line management;
- (b) human resources; and
- (c) a member from a component outside the component the candidate is interviewed for.

(7) *The selection phase consists of panel interviews and assessments as follows -*

- (a) panel interviews;
 - (i) these interviews must take place within a reasonable period after the pre-selection phase has been concluded.
 - (ii) the overall purpose of the interview is to –
 - (aa) provide information about the nature of the Agency and the responsibilities attached to the post;
 - (bb) elicit information on the applicant's previous experience and qualifications insofar as they relate to the job requirements;
 - (cc) assess competence, particularly behavioural attributes and language ability; and
 - (dd) afford the line manager an opportunity to have personal interaction with the applicants.
 - (iii) the interviews and/or questions must be based on competencies determined by the Director-General.
- (b) assessments;
 - (i) assessment tests must be conducted by trained assessors.
 - (ii) the assessment process must be competency-based and may include the following tests -
 - (aa) conventional assessment centre exercises;
 - (bb) psychometric tests;
 - (cc) medical tests; and
 - (dd) job samples.

(8) *The post-selection phase consist of –*

- (a) vetting, that may commence at any time during the selection process.
- (b) Selection and Appointment Board;
 - (i) A Selection and Appointment Board must be constituted within the Agency: Provided that the Minister may determine that a Selection and Appointment Board may be established for a spending center within the Agency, comprising –

- (aa) The Head responsible for the human resources function;
 - (bb) The senior manager responsible for coordination of human resources in the spending centre the candidate is interviewed for, where relevant;
 - (cc) The Head or a designated member responsible for internal security;
 - (dd) The manager of the post to be filled;
 - (ee) A member designated by the Board to be the chairperson; and
 - (ff) The Chairperson of the Staff Council.
- (iii) the functions of the Board are to-
- (aa) receive all selection assessments from the assessment panel;
 - (bb) consolidate recommendations or findings of the various assessment units that conducted the assessments;
 - (cc) to evaluate the recommendations and to select the successful candidate in accordance with requirements and criteria set for the post;
 - (dd) to inform the applicant with regard to the conditions of service applicable to the Agency.
- (iv) the Board must record and submit reasons for its decisions and or recommendations to the Minister or the Director-General, as the case may be.

8. APPOINTMENTS

- (1) The Minister or the Director-General, as the case may be, must make an appointment after satisfying himself or herself that the applicant meets all the requirements and criteria set for the post, and as recommended by the Selection and Appointment Board.
- (2) Where the Minister or the Director-General, as the case may be, does not accept the recommendation of the Board, he or she must record the reasons for such in writing.
- (3) The Minister or the Director-General, as the case may be, may, by invitation, appoint a person in exceptional circumstances outside the process contemplated in regulation 7. Exceptional circumstances refer to -
 - (a) redeployment to resolve personal circumstances, redundancy situations or a member returning from a foreign posting;
 - (b) appointment to a new or different position where such appointment forms part of a restructuring process: Provided that redeployment and/or appointment in a new position must be finalised after consultation with the member concerned;

- (c) transfer to a vacant post with a view to meeting employment equity requirements;
- (d) securing a particular person with scarce skills, not readily available in the Agency;
- (e) contract employment contemplated in regulation 12, to address a particular need; and
- (f) where the Minister or the Director-General, as the case may be, is convinced that such appointment may be in the best interest of the Agency.

9. SECONDMENT

- (1) The Minister or the Director-General, as the case may be, may, on such conditions as may be determined by him or her and with the consent of a member, second such a member to another Public Service Department, any other authority, board, entity, establishment, institution or body for a particular service and/or for a period of time. The seconded member remains subject to the Act and any other law which applies to him or her.
- (2) The recipient Public Service Department or other authority, board, entity, establishment, institution or body must bear the inclusive costs of secondment, unless the agreement states otherwise.

10. ACTING IN A HIGHER MANAGEMENT POST

- (1) The Minister or Director-General, as the case may be, may appoint a member to act in a higher management post.
- (2) A member in a post, one level lower than the vacant post or on an equivalent level to the vacant post or on a level higher than the vacant post, may be appointed by the Minister or the Director-General, as the case may be, to act in a management post for a period not exceeding twelve (12) months.
- (3) The Minister or Director-General, as the case may be, may appoint a member on a lower level to act in a management post: Provided that –
 - (a) a suitable member in a post contemplated in regulation 10(2) is not available, and
 - (b) such an appointment is for a period not exceeding three (3) months.
- (4) The Director-General must compensate such a member for acting in a higher vacant management post (M-level posts) in the form of an allowance if the acting period exceeds 44 consecutive working days contemplated in Chapter VII.
- (5) A member may not act in more than one post at the same time.

11. EXTERNAL TRANSFERS

The Minister or the Director-General, as the case may be, must approve all external transfers: Provided that transfers on account of public interest may only be approved by the Minister.

12. APPOINTMENT OF CONTRACT WORKERS

- (1) A contract must be concluded between the person and the Agency.
- (2) The contract of employment must stipulate all the terms and conditions of employment.

13. RE-APPOINTMENT OF FORMER MEMBERS

The Minister or Director-General, as the case may be, may not re-appoint a former member as a member if –

- (a) he or she left the Agency sooner than the formal retirement age on condition that he or she would not accept or seek re-appointment;
- (b) he or she took a severance package on condition that he or she would not accept or seek re-appointment;
- (c) the original grounds for termination of service outweigh the need or request for re-appointment; or
- (d) the former member left the Agency due to ill health and is unable to provide recent and conclusive medical evidence of recovery.

14. PROBATION

- (1) All new appointments within the Agency including transfers from other Public Service Departments or Public entities, are subject to a twelve-month (12) probation period, except that the –
 - (a) Minister or Director-General, as the case may be, may exempt a person who is transferred to the Agency from any organ of state if the person concerned, immediately prior to the transfer, served in a permanent capacity in that organ of state; and
 - (b) the probation period of newly appointed learner-technicians must be equal to the minimum period needed to obtain the minimum educational qualifications or to complete the technical training required by the Agency.
- (2) The Director-General may extend a probation period for a maximum of six (6) months, if he or she has reason to believe that it will be in the interest of the Agency to do so, according to Chapters XVIII and IX.
- (3) A member's permanent appointment may be confirmed by the Director-General if the general manager of a member on probation certifies that the member has, during the period of probation or extended period of probation, complied with the conditions and requirements of the Agency.
- (4) A general manager of a member on probation must ensure that –

- (a) the member, at the commencement of the probationary period, knows the performance and other requirements for obtaining confirmation of appointment;
- (b) the member, on a quarterly basis, receives written feedback on his or her performance and compliance with other requirements;
- (c) if necessary, the member receives training, counselling or other assistance to meet the requirements for confirmation;
- (d) the member receives written confirmation of appointment at the end of the probationary period, if he or she has been found suitable for the relevant post; and
- (e) the member, subject to a procedure contemplated in Chapters XVIII to XX, when dismissal is considered as a result of misconduct, poor performance or medical unfitness, is afforded the opportunity to state his or her case during which process the member may be assisted by a representative: Provided that such a representative must be a member of the Agency and has the right to accept or refuse to do so.

15. TERMINATION OF SERVICE

- (1) The service of a member of the Agency may be terminated upon –
 - (a) the retirement of the member;
 - (b) the resignation or voluntary retrenchment of the member;
 - (c) death;
 - (d) the non-confirmation of a probationary appointment; or on account of
 - (e) misconduct;
 - (f) medical unfitness;
 - (g) poor performance;
 - (h) operational requirements;
 - (i) public interest;
 - (j) absence without the permission of the Director-General for a period exceeding ten (10) consecutive working days;
 - (k) absence as a result of other employment;
 - (l) security considerations;
 - (m) instigation of or participation in a strike;
 - (n) imprisonment without the option of a fine; or

- (o) upon failure to meet probation requirements.
- (2) The retirement, resignation or voluntary retrenchment of Deputy Director(s)-General, general managers and managers or members in equivalent posts must be noted by the Minister.
- (3) Unless the Minister or the Director-General, as the case may be, determines otherwise, the resignation of a member in respect of whom any hearings, inquiries or proceedings instituted in terms of the Act and these Regulations are pending, may not take effect until the completion of the hearings, procedure or inquiry. If a member resigns, the Director-General may deem the resignation as a discharge.
- (4) A member may resign voluntarily if he or she has given the Director-General at least 30 calendar days written notice of the intention to resign: Provided that the –
 - (a) notice period may be reduced by the Minister or the Director-General, as the case may be, on the request of the member; or
 - (b) the Minister or the Director-General, as the case may be, may accept the resignation of the member at any time prior to the expiry of the notice period without loss to any employment-related benefits that the member would have been entitled to up to the end of the notice period.

16. PROCEDURE APPLICABLE TO MEMBERS ON PROBATION

The procedure contemplated in Chapter XVIII applies to members on probation in the case of disciplinary procedure and Chapter XIX in the case of poor performance.

17. EXIT INTERVIEWS

- (1) The structure responsible for human resources must conduct exit interviews with all departing members: Provided that the Director-General may nominate any other structure to participate during the interviews.
- (2) The information gathered during the exit interviews must be used to address problems relating to personnel turnover and, where relevant, for security purposes.
- (3) Where circumstances dictate, the panel conducting the exit interview may include representation from the structure responsible for internal security.

18. MEMBER RECORDS

The Agency must keep records of each member and each post on the approved establishment in accordance with the security and confidentiality requirements issued by the Minister as well as the provisions of the National Archives of South Africa Act, 1996 (Act 43 of 1996).

CHAPTER VI

CADET RECRUITMENT AND TRAINING

1. PURPOSE

The purpose of this Chapter is to specify the -

- (a) requirements and procedures for the recruitment and placement of cadets in the Agency;
- (b) training period of cadets in the Academy or other recognised training institutions; and the
- (c) conditions applicable to cadets placed in the Agency.

2. RECRUITMENT

- (1) The Director-General may recruit cadets at institutions of Higher Learning as defined in the Higher Education Act, 1997 (Act 101 of 1997).
- (2) The Director-General may under exceptional circumstances recruit a limited number of cadets directly from high schools: Provided that recruited cadets are in Grade 12.
- (3) The Director-General must establish a committee, responsible for the selection of cadets, comprising-
 - (a) the Deputy Head of the training academy;
 - (b) a senior manager who performs a human resources function within the Agency or a spending agency, as the case may be;
 - (c) a General Manager representing line function;
 - (d) a member from the Ministry responsible for Public Relations;
 - (e) a senior manager responsible for training at the training academy.
- (5) The Agency may provide study bursaries to recruited cadets, under circumstances determined by the Director-General and contemplated in Chapter XIV.
- (6) The rules applicable to study bursaries to members of the Agency must apply to cadets.

3. ASSESSMENTS

- (1) Cadets must prior to placement at the training academy, undergo relevant assessment tests and exercises to determine their suitability for placement at the training academy.
- (2) The Director-General may, after consultation with the Agency, issue directives on the assessment programmes for cadets.

4. ADMITTANCE TO THE AGENCY'S TRAINING ACADEMY

- (1) The Director-General may issue directives on the –
 - (a) qualifying requirements that need to be met by each student for admittance to the training academy;
 - (b) training curriculum and relevant learnership programmes for cadets;
 - (c) duration of the training programme for cadets.
- (2) No cadet may be placed at the training academy without a security clearance certificate unless the Minister has issued a temporary clearance certificate in accordance with section 14(6) of the Act.

5. CONDITIONS OF SERVICE

- (1) All cadets must be employed on contract during the training period: Provided that the terms and conditions of the contract are determined by the Minister after consultation with the Director-General.
- (2) A cadet may not be a member of a trade union.
- (3) A cadet is not a member as defined in the Act.

6. PERMANENT EMPLOYMENT AND PLACEMENT

- (1) A cadet may be appointed in the Agency after successful completion of the learnership programme.
- (2) For permanent employment within the Agency, a cadet must comply with the recruitment, selection and appointment requirements contemplated in Chapter V.
- (3) For purposes of placement, a cadet must have successfully undergone competency assessment tests and a vetting process according to the provisions of Chapter V.
- (4) The Director-General must establish a selection board to consider the various assessment reports, including the learnership results, comprising -
 - (a) Deputy Directors-General responsible for core and human resource function within the Agency or a spending center as the case may be;
 - (b) the Deputy Head of the training academy;
 - (c) general managers responsible for the relevant core functions and human resources;
 - (d) the Chairperson of the Staff Council.

7. EXIT PROCEDURE

(1) A cadet who does not –

- (a) comply with the requirements for appointment in the Agency;
- (b) successfully complete the prescribed courses at the training academy; or
- (c) qualify for placement within a specific post in the Agency may be placed as follows -
 - (i) within the Public Service;
 - (ii) within another institution determined by the Director-General, or
 - (iii) in a cover environment on contract:

Provided that if a cadet does not meet the academic criteria for admittance, he or she must re-register for the cadet programme within a period of one (1) year.

- (2) Notwithstanding the provisions of regulation 7(1), the Director-General may terminate the contract of a cadet who does not meet the requirements contemplated in regulation 7(1) or in terms of Chapters XVIII or XIX according to procedures applicable to members on probation or in terms of Chapter XX.
- (3) The Director-General may accept a cadet's request for termination of the contract.

8. PROBATION

After appointment of a cadet as a member in the Agency, he or she must be on probation for a period of twelve (12) months according to the provisions contemplated in Chapter V.

CHAPTER XXIV

RESTRICTIONS OF FORMER MEMBERS

1. PURPOSE

The purpose of this Chapter is to regulate the manner in which any former member of the Agency may apply -

- (a) for consent to disclose classified information in terms of the Act; and/or
- (b) for a clearance certificate permitting employment in the private security industry.

2. CONFIDENTIALITY

No person who comes into possession of information as a result of an application or appeal made in terms of this Chapter may disclose such information unless -

- (a) the Director-General consents to such disclosure; or
- (b) such disclosure is authorised by the Act, this Chapter or a Court order.

3. APPLICATION FOR CONSENT TO DISCLOSE CLASSIFIED INFORMATION

(1) Application

- (a) Any former member who applies for the disclosure of classified information in terms of the Act must do so according to form 1 contained in Appendix A.
- (b) The application must *inter alia* contain -
 - (i) details of the classified information which form the subject of the application;
 - (ii) the reasons for disclosure of the information;
 - (iii) the purpose for which the information will be used;
 - (iv) details of any person who may receive the information;
 - (v) the manner in which the information will be disclosed.
- (c) If the Director-General is of the opinion that he or she has been provided with insufficient information in the application, he or she may -
 - (i) reject the application; or
 - (ii) request further written information.

(2) Hearing

- (a) The Director-General may, at his or her discretion, request the former member to appear at a hearing for the purpose of considering the application.
- (b) The Director-General must determine the date for and place of the hearing.
- (c) The former member may attend the hearing, but at his or her own expense.
- (d) If the former member refuses or fails to attend a hearing when he or she was requested by the Director-General to do so according to regulation 3(2)(a), the Director-General may make his or her decision on the information available.

(3) Decision and record of hearing

- (a) The Director-General must make a decision within a period not exceeding 30 consecutive days upon receiving the application.
- (b) The Director-General must inform the former member of his or her decision, in writing, within a period of twenty (20) consecutive days after reaching a decision.
- (c) The decision of the Director-General, accompanied by a record of the hearing must be provided to the former member who applied. This notification must include -
 - (i) the name and address of the former member;
 - (ii) a brief description of the application;
 - (iii) if the application is approved, the conditions upon which the consent is provided, which must include -
 - (aa) the manner of disclosure;
 - (bb) the information that may be disclosed;
 - (cc) to whom the information may be disclosed.
 - (iv) the date of the decision;
 - (v) if the application is unsuccessful, the reason(s) for the Director-General's decision;
 - (vi) the right of the former member to appeal against the Director-General's decision and/or the conditions to the Minister.
- (d) The Director-General must keep record of all applications made to him or her as well as of decisions made by him or her.

4. APPLICATION FOR A CLEARANCE CERTIFICATE PERMITTING EMPLOYMENT IN THE PRIVATE SECURITY INDUSTRY

(1) Application

- (a) A former member who applies for a clearance certificate to render a security service in terms of the Act must do so according to form 2 contained in Appendix A.
- (b) The application must contain the following -
 - (i) detailed description of the nature of the service to be rendered;
 - (ii) skills, knowledge or information gained while in the service of the Agency that may be utilised by him or her in rendering the intended service;
 - (iii) detail of the person(s), if any, in whose service he or she will be;
 - (iv) details of the business, if any, he or she plans to start;
 - (v) person(s) to whom the intended service will be provided.

(2) Decision

- (a) The Director-General must make a decision within a period not exceeding 30 consecutive days upon receiving the application.
- (b) Where the Director-General is of the opinion that the information provided is insufficient, he or she may request further information.
- (c) The Director-General must inform the former member of his or her decision in writing within a period of twenty (20) consecutive days after reaching a decision as well as his or her right to appeal to the Minister.

5. APPEALS

(1) Right to appeal

- (a) A former member may appeal to the Minister against the decision of the Director-General in terms of regulations 3 or 4.
- (b) The appeal must be lodged with the Minister within a period of 30 consecutive days upon receipt of the decision of the Director-General.

(2) Appeal format

- (a) An appeal against a decision of the Director-General must be lodged according to form 3 contained in Appendix A.
- (b) The appeal format must set out the relevant facts concisely as well as the grounds for the appeal.
- (c) An appeal against a decision of the Director-General must be accompanied by the record of the hearing contemplated in regulation 3.

- (d) The appeal must be served on the Director-General.
- (e) The Director-General must forward all relevant documentation to the Minister and former member who applied within a period of twenty (20) consecutive days upon receipt of the appeal.
- (f) The former member may supplement his or her appeal within a period of fourteen (14) consecutive days upon receiving documentation in terms of regulation 5(2)(e).

(3) The decision of the Minister

The Minister concludes the appeal by informing the former member who applied and the Director-General of his or her decision in writing.

FORM 1

APPENDIX A

APPLICATION BY A FORMER MEMBER OF THE AGENCY FOR CONSENT TO DISCLOSE
CLASSIFIED INFORMATION

Application in terms of section 27 of the Act, read with Chapter XXIV

A former member of the Agency may apply to the Director-General to consider an application for consent to disclose classified information. The former member must complete this form and send it to the Director-General:

Complete this form in full. If you need more space to answer the questions then complete your answers on another sheet of paper and attach it to this form.

1. Personal information

- 1.1 **Name** _____
- 1.2 **Employee number** _____
- 1.3 **Address** _____
- 1.4 **Tel number (h)** _____
- 1.5 **Tel number (w)** _____
- 1.6 **Cell number** _____
- 1.7 **Fax number** _____

2. Employment history with the Agency

- 2.1 **Name of employer** _____
- 2.2 **Directorate/Division/Unit** _____
- 2.3 **Occupational group** _____
- 2.4 **Highest post level attained** _____
- 2.5 **Name of immediate supervisor** _____
- 2.6 **Date of commencement of employment** _____
- 2.7 **Date of termination of employment** _____

3. Nature of classified information**3.1 *What classified information do you want to disclose?***

3.2 *Why do you want to disclose this classified information?*

3.3 For what purpose will this information be used?

3.4 Who will receive this information?

3.5 How do you intend to disclose the information?

4. Further details***Is there any other information you wish to draw to the Review Board's attention?***

Signature _____

Date _____

FOR OFFICIAL PURPOSES***Decision of the Director-General****The Director-General decided on _____ (date)*

- ☐ *to request the applicant to submit further information*
- ☐ *to request the applicant to attend a hearing*
- ☐ *to accept the application on certain conditions*
- ☐ *to approve the application*
- ☐ *to reject the application*

Signature _____

Date _____

FORM 2

APPENDIX A

APPLICATION BY A FORMER MEMBER OF THE AGENCY FOR A CLEARANCE
CERTIFICATE

Application in terms of section 28 of the Act, read with Chapter XXIV

A former member of the Agency may apply to the Director-General for a clearance certificate to enter employment in the private security industry. The former member must complete this form and send it to the Director-General:

Complete this form in full. If you need more space to answer the questions then complete your answers on another sheet of paper and attach it to this form.

1. Personal information

- 1.1 **Name** _____
- 1.2 **Employee number** _____
- 1.3 **Address** _____
- 1.4 **Tel number (h)** _____
- 1.5 **Tel number (w)** _____
- 1.6 **Cell number** _____
- 1.7 **Fax number** _____

2. Employment history with the Agency

- 2.1 **Name of employer** _____
- 2.2 **Directorate/Division/Unit** _____
- 2.3 **Occupational group** _____
- 2.4 **Highest post level attained** _____
- 2.5 **Name of immediate supervisor** _____
- 2.6 **Date of commencement of employment** _____
- 2.7 **Date of termination of employment** _____

3. Nature of proposed services in the private security industry

3.1 *What type of services will you be expected to render?*

3.2 *What skills, knowledge or information that you gained while in the Agency will be utilised?*

4. New employer/proposed business details

If you will be employed in the private security industry, complete questions 4.1 and 4.2. If you plan to start your own business in the private security industry, complete questions 4.3 and 4.4.

4.1 *Who is your proposed new employer?*

4.1.1 Name _____

4.1.2 Address _____

4.1.3 Tel number _____

4.1.4 Fax number _____

4.2 *Who are your proposed new employer's clients (i e to whom will your services be provided)?*

4.3 *What are your business details?*

4.3.1 Name of Company _____

4.3.2 Address _____

4.3.3 Tel number _____

4.3.4 Fax number _____

4.4 ***Who will be your prospective clients (i.e. to whom will your services be provided)?***

5. **Further details**

Is there any other information you wish to draw to the attention of the Director-General?

Signature _____ Date _____

FOR OFFICIAL PURPOSES

Decision of the Director-General

The Director-General decided on _____ (date)

- ☐ to request the applicant to submit further information
- ☐ to approve the application
- ☐ to reject the application

Signature _____ Date _____

FORM 3

APPENDIX A

APPEAL BY A FORMER MEMBER OF THE AGENCY AGAINST A DECISION OF THE
DIRECTOR-GENERAL

Application in terms of section 28 of the Act, read with Chapter XXIV.

A former member of the Agency may appeal to the Minister against the decision of the Director-General not to provide him or her with a clearance certificate to enter employment in the private security industry.

The former member must complete this form and send it to the Director-General:

Complete this form in full. If you need more space to answer the questions then complete your answers on another sheet of paper and attach it to this form.

1. Personal information

- 1.1 **Name** _____
- 1.2 **Employee number** _____
- 1.3 **Address** _____
- 1.4 **Tel number (h)** _____
- 1.5 **Tel number (w)** _____
- 1.6 **Cell number** _____
- 1.7 **Fax number** _____

2. Employment history with the Agency

- 2.1 **Name of employer** _____
- 2.2 **Directorate/Division/Unit** _____
- 2.3 **Occupational group** _____
- 2.4 **Highest post level attained** _____
- 2.5 **Name of immediate supervisor** _____
- 2.6 **Period of employment** _____

3. The grounds for the appeal

Specify in your answers to these questions in what respects you disagree with the Director-General's decision.

3.1 *Did the Director-General, in your opinion, fail to consider or gave insufficient weight to relevant factors?*

3.2 *Did the Director-General, in your opinion, consider or give weight to irrelevant factors?*

3.3 Did the Director-General, in your opinion, make any error of law?

3.4 What outcome/result do you seek from this appeal?

3.5 Are there any other factual or legal grounds you wish to draw to the attention of the Minister?

4. Further information

4.1 The Director-General will forward all relevant documentation to the Minister and to you within twenty (20) days of receipt of this appeal.

4.2 You may supplement your grounds to appeal within ten (10) days of receiving this documentation.

Applicant's signature _____ Date _____

FOR OFFICIAL PURPOSES

Decision of the Minister

On the _____ (date) the Minister decided that the appeal was

☐ *Successful*

☐ *Unsuccessful*

Signature _____ Date _____

CHAPTER XXIII**CIVILIAN INTELLIGENCE VETERANS ASSOCIATION****1. PURPOSE**

The purpose of this Chapter is to provide a regulatory framework for the formation of a Civilian Intelligence Veterans Association for former members who would like to serve the Association.

2. APPLICATION OF THE REGULATION

- (1) The formation of a Civilian Intelligence Veterans Association must be according to the "Intelligence Officer for Life" principle.
- (2) The Civilian Intelligence Veterans Association must represent the interest of its members at national level.
- (3) The Civilian Intelligence Veterans Association and the Agency must establish and maintain a close relationship with each other.
- (4) The Civilian Intelligence Veterans Association must promote comradeship and social interest among the members of the Association.
- (5) The Civilian Intelligence Veterans Association may not discriminate against any member of the Association on one or more grounds, including race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV-status, conscience, belief, political opinion, culture, and language.

3. HEADQUARTERS

The seat of the headquarters of the Civilian Intelligence Veterans Association must be determined by the Executive Committee contemplated in regulation 9.

4. LANGUAGE

- (1) English must be the official language.
- (2) Affiliated groups may decide which language(s) they must use within the groups: Provided that all correspondence is conducted in English.

5. PATRON

The Minister or a person delegated by the Minister must act as the Civilian Intelligence Veterans Association's patron.

6. MEMBERSHIP OR AFFILIATION

- (1) Membership to the Civilian Intelligence Veterans Association is voluntary.

- (2) A former member of the Agency, the Intelligence Service, Academy or the widow or widower of a retired member or groups of retired members, may obtain membership without any restriction on location whether inside or outside the borders of the Republic of South Africa: Provided that such a former member was not discharged from the Agency, the Intelligence Service or Academy due to misconduct contemplated in Chapter XVIII or poor performance contemplated in Chapter XIX.
- (3) Membership or affiliation may be granted to individuals and groups who apply in writing to the Civilian Intelligence Veterans Association Board.
- (4) A minimum of ten (10) former members of the Agency, the Intelligence Service and/or Academy, who comply with the criteria contemplated in regulation 6(2), may affiliate with the Civilian Intelligence Veterans Association as a group.
- (5) If former members, regardless of the reason, prefer not to join an affiliated group, the Association must accommodate such persons as members: Provided that –
 - (a) they comply with the criteria contemplated in regulation 6(2);
 - (b) such members accept that they must forgo the social togetherness and support that are characteristic of affiliated groups; and
 - (c) that they do not have the right to vote at the annual or any special general meeting.

7. TERMINATION OF MEMBERSHIP

Membership of an affiliated group or as an associate member may be terminated after a notice period of 30 consecutive days if -

- (a) such an affiliated group or individual terminates membership in writing at a date prior to the date the affiliation/membership fee is payable;
- (b) an affiliated group or individual continually fails to pay the affiliation/membership fee after a written reminder by the National Board;
- (c) a newly registered affiliated group or individual fails to pay the affiliation/membership fee;
- (d) it was found after an investigation that the Association was dishonoured or embarrassed by an individual member or affiliated group's conduct to the extent that the objectives of the Association were prejudiced.

8. MEMBERSHIP OR AFFILIATION FEE

- (1) An affiliation fee for affiliated groups and individuals must be determined annually at a general meeting. Associate members must be assessed individually on the same basis as members of affiliated groups and fees are payable in advance.
- (2) It is the responsibility of the National Board to revise the affiliation fee annually.

9. COMPOSITION OF THE CIVILIAN INTELLIGENCE VETERANS ASSOCIATION

(1) National Board

- (a) The Association must be governed and managed by a National Board consisting of -
 - (i) a chairperson;
 - (ii) a vice chairperson;
 - (iii) a secretary;
 - (iv) a treasurer;
 - (v) the chairperson of each affiliated group (ex-officio members);
 - (vi) a maximum of two (2) co-opted members who must be members of the Association;
 - (vii) a manager whose responsibility incorporate the Civilian Intelligence Veterans Association within the Agency.
- (b) The election procedures are as follows -
 - (i) notice of the annual general meeting, the date, venue and time must be given to affiliated groups and associate members at least three (3) months in advance of the meeting;
 - (ii) the notification must include a nomination form;
 - (iii) on receipt of the notification, affiliated groups must arrange for their own annual general meeting to take place at least 30 consecutive days prior to the annual general meeting of the Association -
 - (aa) candidates must be nominated for the respective positions in a manner decided upon by the affiliated group itself;
 - (bb) nominees must accept their nomination in writing and this must reach the secretary of the National Board not later than four (4) consecutive days prior to the date of the annual general meeting;
 - (cc) all valid nominations for the election of the respective positions must be presented at the annual meeting and the election of members to the National Board must be made by means of secret ballot.

(2) Executive Committee

- (a) The Executive Committee must consist of a chairperson, a vice chairperson, a secretary, a treasurer and an additional member elected by the National Board for this purpose.
- (b) It is the responsibility of the Executive Committee to ensure effective daily functioning of the Association. Their functions must include addressing of general enquiries, processing membership applications and to providing approval to the treasurer of the National Board for ongoing expenses.

- (c) The Executive Committee may act on behalf of the Board for the day-to-day managing of the Association: Provided that the Committee reports to the Board on all decisions taken.

10. **FUNCTIONS OF THE NATIONAL BOARD**

The Board is responsible for –

- (a) annual planning;
- (b) meeting objectives set out for the Association;
- (c) the execution of objectives and directives decided upon at the annual general meeting;
- (d) written communication of decisions and directives to all affiliated members;
- (e) regular meetings;
- (f) assuring that proper records are kept of decisions taken at such meetings;
- (g) generating donations and affiliation fees and ensuring that proper record is kept of all income and expenditure according to sound financial principles and as determined by the Minister from time to time.

11. **AFFILIATED GROUPS**

Affiliated groups must promote the general welfare and communal spirit of their members, including social needs and any other need arising from sickness or personal circumstances. In addition they must, in a spirit of cooperation support other affiliated groups and the Board of the Association.

12. **DISBANDMENT OF THE ASSOCIATION**

- (1) The annual general meeting or a special general meeting may, if convened and constituted for this purpose and by a majority vote, decide to disband the Association and dispose of its assets.
- (2) If an annual general meeting cannot be convened, the Board may be convened, or should the Board fail to convene, the Executive Committee may, on behalf of the Board address a notice to all affiliated groups in which the intention and reasons to disband the Association are set out. The notice must be accompanied by ballot papers to enable members to vote on this aspect.
- (3) A return date of at least 21 consecutive days, calculated from the day on which the notice was posted or otherwise issued, must be set as return date for the ballot papers. Should the majority of the returned votes be in favour of the disbandment, the Board or Executive Committee, according to the circumstances, may disband the Association after all debts have been paid.
- (4) The National Board and/or the Executive Committee, as the case may be, must decide how to dispose of any remaining funds or assets of the Association and associated members must be advised accordingly.

13. RESPONSIBILITY OF THE AGENCY

- (1) The Agency must, on a monthly basis, contribute an amount to the Association to enable it to render its services.
- (2) The Executive Committee of the Association must be invited to attend the annual year-end function of the Agency.
- (3) The Minister may host a function for the members of the Association.

CHAPTER XXVI

VETTING

1. GENERAL

- (1) These vetting regulations provide a framework for determining the security competence of a person or member.
- (2) All information acquired during a vetting investigation procedure must be treated with confidentiality and may not be used for any other purpose except for determining the security competence of the person or member with due regard for section 2(1)(b)(iii) of the National Strategic Intelligence Act, 1994 (Act 39 of 1994).
- (3) The vetting investigation procedure may only be used to –
 - (a) protect the Agency from foreign and hostile intelligence operations;
 - (b) safeguard the Agency from the unauthorised dissemination or disclosure of classified information and material; and
 - (c) determine the person's or member's integrity, reliability and loyalty to the Agency in safeguarding the interests of the Republic of South Africa and its Constitution.
- (4) All vetting investigation procedures must be undertaken -
 - (a) with due regard for the vision, mission and core values of the Agency;
 - (b) subject to the fundamental rights assigned in the Constitution.
- (5) For purpose of this Chapter -
 - (a) "General Manager" means the General Manager responsible for the vetting function;
 - (b) "applicant" means a person or member who is subject of a vetting investigation.

2. CLEARANCE LEVELS

- (1) The following clearance levels apply to the Agency -
 - (a) top secret – as contemplated in Chapter XXV: Provided that this classification includes access to information and/or premises;
 - (b) secret - as contemplated in Chapter XXV: Provided that this classification includes access to information and/or premises;
 - (c) confidential - as contemplated in Chapter XXV: Provided that this classification includes access to information and/or premises;
- (2) The Director-General must determine the clearance level that any person and member must acquire before being employed or being permitted to perform any specific task for or on behalf of the Agency.

- (3) The Director-General must determine the frequency with which an applicant's vetting must be evaluated.

3. FACTORS RELEVANT TO ACQUIRING A SECURITY CLEARANCE

- (1) The following factors are, *inter alia*, relevant in determining whether an applicant should acquire a security clearance -
- (a) criminal offences and misconduct;
 - (b) use of dependency forming substances;
 - (c) financial considerations;
 - (d) behavioural disorders;
 - (e) citizenship and/or foreign influence; and
 - (f) loyalty to the Constitution.
- (2) The factors in regulation 3(1) must be evaluated to determine the competency of the applicant to be entrusted with classified or sensitive information.
- (3) The Director-General must weigh the merits and weight of the factors referred to in regulation 3(1), in determining the security competence of an applicant.

4. VETTING INVESTIGATION PROCEDURES

- (1) The following procedures are applicable -
- (a) a vetting investigating officer must gather all available information that might reasonably have a bearing on the outcome of a security clearance;
 - (b) the Director-General may request the fingerprints of all persons or members for verification by the South African Police Services (SAPS);
 - (c) the vetting investigating officer must, on behalf of the Agency request an applicant to submit the following -
 - (i) financial statements for at least three (3) months preceding the date of the vetting investigation;
 - (ii) certified copies of identity documents;
 - (iii) any other information or documents which may assist the vetting investigation officer to perform his or her duties.
 - (d) the vetting investigating officer must collect the necessary information by means of an in-depth interview with the applicant and the references;
 - (e) after gathering all the relevant information, the vetting investigating officer must evaluate the information, compile a report and make a recommendation for the attention of the General Manager with regard to the security competence of the applicant concerned;

- (f) the General Manager must, upon receipt of the report, evaluate the facts presented to him or her and make a recommendation to the Director-General on the security competence of the applicant;
- (g) the General Manager must, in the event of finding the applicant security incompetent, provide the Director-General with reasons for his or her finding;
- (h) where the General Manager is unable to make a recommendation to the Director-General on the basis of the report presented to him or her, the Director-General may refer the matter for recommendations to the Security Clearance Advisory Board (SCAB), established in terms of regulation 5;
- (i) the Director-General must, after considering the recommendations of the General Manager or SCAB, as the case may be, evaluate the information presented to him or her, degrade, withdraw or refuse to grant a security clearance certificate;
- (j) the applicant must, in writing, be notified of the outcome of the vetting investigation: Provided that information which may be prejudicial to national security, criminal investigations, identity of sources and members, may not be disclosed to the applicant;
- (k) any applicant may appeal against the decision of the Director-General, in terms of regulation 8;
- (l) the security clearance level, if any, issued to an applicant in terms of regulation 4(1)(i) must -
 - (i) be specified in a certificate issued by the Director-General, which is, *prima facie* proof of the security clearance level;
 - (ii) remain in force until the next vetting investigation in respect of the applicant, or until such security clearance has lapsed, been downgraded or withdrawn; and
 - (iii) be subject to periodic revision at such times or intervals as the Director-General may determine from time to time.
- (2) The Director-General must determine the procedure applicable to different security clearance levels.

5. SECURITY CLEARANCE ADVISORY BOARD (SCAB)

- (1) The Director-General may appoint not fewer than five (5) members of the Agency to serve on SCAB, one of whom will be the chairperson.
- (2) SCAB must evaluate the report of the General Manager contemplated in regulation 4(1)(h).
- (3) SCAB may be constituted of a member(s) from the following structures in the Agency -
 - (a) vetting;

- (b) human resources;
- (c) legal services;
- (d) labour relations; and
- (e) any other member(s) designated by the Director-General.

6. **POLYGRAPH**

- (1) The vetting investigating officer may request an applicant to undergo a polygraph examination to determine the reliability of information gathered in terms of regulation 4.
- (2) The polygraph must be used as an investigative aid, and not as conclusive proof of security competence.
- (3) The refusal by an applicant to undergo a polygraph examination does not, in itself, constitute a reason for refusal of a security clearance, instead further investigations must be conducted.
- (4) The Director-General may issue directives on polygraph testing.

7. **REPRESENTATION**

- (1) An applicant adversely affected by a withdrawal, downgraded or refusal of a security clearance and who intends to lodge an appeal against the decision of the Director-General is entitled to representation: Provided that the Director-General must be notified of such representation.
- (2) The services of a legal practitioner who is not a member of the Agency may only be utilised according to regulation 10.
- (3) The Director-General must implement measures which he or she deems necessary and advisable to protect intelligence information and documents in the possession or under the control of the Agency from unauthorised disclosure, which are the subject of an appeal.

8. **WITHDRAWAL, DOWNGRADING OR REFUSAL OF SECURITY CLEARANCES**

- (1) If the Director-General is reasonably of the opinion that an applicant may not be appointed as a member or continue as a member without the possibility that such an applicant could be a security risk or could possibly act in any manner prejudicial to the security interests of the Republic of South Africa, he or she may withdraw, downgrade or refuse to grant security clearance.
- (2) The applicant whose security clearance has been refused, withdrawn or downgraded must be notified, in writing, of the decision of the Director-General with reasons therefore: Provided that information which may be prejudicial to national security, criminal investigations, identity of sources and members, may not be disclosed to the applicant.

- (3) Within 30 consecutive days after having received the notification contemplated in regulation 8(2), the applicant who is adversely affected thereby may lodge a written appeal with the Director-General, together with all such written representations, statements and documents deemed necessary, and a notice of intention to have representation.
- (4) The Minister may upon such written appeal by the applicant within the period contemplated in regulation 8(3) and on good reason shown, extend the period.
- (5) The Director-General must, upon receipt of any appeal lodged with him or her in terms of regulation 8(3), provide the following information to the Minister within 21 consecutive days -
 - (a) written representations together with all supporting documents and any representation;
 - (b) notification to the applicant by the Director-General with the reasons for withdrawal, downgrading or refusal of security clearance;
 - (c) all documents, information and particulars considered in its evaluation by the Director-General in coming to a decision;
 - (d) any further reasons which may have influenced the decision:

Provided that the Director-General must as far as is reasonably practicable, take steps to ensure that national security methods, intelligence collection methods, sources of information and the identity of members of the Agency are protected from unauthorised disclosure.

- (6) In addition to the information contemplated in regulation 8(5), the Director-General must satisfy the Minister that -
 - (a) the information or intelligence which forms the basis of the decision contemplated in regulation 8(1) was evaluated by him, according to intelligence methods, and that it was correct and true;
 - (b) in his or her opinion, the information or intelligence that is withheld from the applicant contemplated in regulations 8(2) and 8(5), if any, is of such a nature that the applicant concerned should not be notified thereof, and or should not even know that the Agency has the ability to obtain that information or intelligence;
 - (c) he or she personally considered and studied the information or intelligence; and that he or she, acting in good faith and in the interests of national security, in the light of the contents of the information or intelligence received cannot entrust the applicant with the most sensitive secrets of the Republic of South Africa.

9. **APPEALS BOARD**

- (1) The Minister may appoint five (5) persons to constitute an Appeals Board and to consider appeals: Provided that the persons so appointed and who are not members of the Agency must meet the requirements of a security clearance: Provided further

that at least two (2) of the appointed persons must be legal and/or labour relations experts.

- (2) The members of the Appeals Board may also be members of the Agency.
- (3) The Minister may, for each appeal lodged, appoint at least three (3) of the members of the Appeals Board to form an Appeals Panel, of whom one (1) must be the chairperson: Provided that at least two (2) of the appointed persons must be legal and/or labour relations experts.
- (4) The Minister must determine the terms and conditions of appointment of persons on the Appeals Panel who are not members of the Agency in accordance with the Public Finance Management Act, 1999 (Act 1 of 1999).
- (5) The chairperson of the Appeals Panel must, in consultation with the Director-General, ensure that the Appeals Panel is given the necessary administrative support.

10. APPEALS

- (1) The notice of appeal must set out the grounds for appeal.
- (2) Upon receipt of the documents referred to in regulation 8(5), the Minister may, within ten (10) consecutive days, consider the appeal, or appoint a panel to constitute the Appeals Board and provide it with the documents referred to in regulation 8(5).
- (3) Upon being appointed, the chairperson of the Appeals Board must, without undue delay, send a written notice to the applicant who lodged the appeal. The written notice must specify –
 - (a) the date on which representations may be made by the parties to appeal. This date must not exceed five (5) consecutive days upon receipt of the written notice;
 - (b) the time and venue for representations to be heard.
- (4) The applicant may be represented by any person, member or legal practitioner in the appeal process: Provided that if he or she is represented by a legal practitioner who is not a member, the following prerequisites are met –
 - (a) such a legal practitioner must satisfy the requirements for security clearance;
 - (b) the members of the Appeals Board give their consent thereto, after considering –
 - (i) the complexity of the case;
 - (ii) the nature of the questions of law raised by the appeal;
 - (iii) public interest;
 - (iv) the comparative ability of the opposing parties or their representatives to deal with the appeal.
- (5) The legal costs incurred by the applicant must be paid by him or her.

- (6) If an applicant fails to appear in person or make representations through a representative on the specified date, the chairperson may rule to consider the appeal in his or her absence or postpone the appeal hearing.
- (7) The chairperson of the Appeals Board must determine and issue rules for the proper noting and consideration of appeals.
- (8) The Appeals Board must, within fifteen (15) consecutive days upon consideration of the appeal, make a recommendation thereon in accordance with the provisions of the Act.
- (9) The majority of members of the Appeals Board form a quorum at any meeting of the Appeals Board.
- (10) On an equality of votes in any meeting of the Appeals Board, the chairperson has a casting vote in addition to the deliberate vote.
- (11) The recommendation of the Appeals Board must be forwarded to the Minister for consideration.

11. CONSIDERATION OF THE APPEAL BY THE MINISTER

- (1) Where the Minister has appointed an Appeals Board in terms of regulation 9(3), he or she must within 21 consecutive days of receipt of the recommendations of the Appeals Board either confirm or set aside the recommendations.
 - (2) Where the Minister considers the appeal, he or she must confirm, set aside or vary the decision of the Director-General.
 - (3) The Minister's decision is final and binding.
 - (4) The decision of the Minister must be submitted to the Director-General in writing within fourteen (14) consecutive days after having made a decision in terms of regulation 11(1) or 11(2), for purposes of notification to the applicant who lodged the appeal.
 - (5) The Director-General must, within ten (10) consecutive days of receipt of the Minister's decision, inform the applicant in writing of the outcome of the appeal.
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