

081112 pepelvic

PROPOSED AMENDMENTS 8 OCTOBER 2012 (Clause 1, 11 and 12)

Amendment of section 1 of Act 56 of 2001

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

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

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

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

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

(a) designing and managing master key systems;

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

(c) maintaining key code records;

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

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

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

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

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

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

(e) the substitution for the definition of "**organ of State**" of the following definition:

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

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

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

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

"(a) (i) who is employed or otherwise engaged by another person, including an organ of **[State]** state, and who receives or is entitled to receive from such other person any remuneration, reward, fee or benefit, for rendering one or more security services; or

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

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

"(e) manufacturing, importing, distributing or advertising of monitoring devices contemplated in section 1 of the **[Interception and Monitoring prohibition Act, 1992 (Act No. 127 of 1992)]** Regulation of Interception of Communication and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002), and which are not listed under section 44 of the Act and not affected by the prohibition in section 45 of the Act;"

~~(f) the deletion of paragraph (g) of the definition of "security service";~~

~~(j) the substitution for paragraph (h) of the definition of "security service" of the following paragraph:~~

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

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

Option A

~~"(IA) protecting or safeguarding cash or other valuables goods with a high value when being transported from one point to another;"~~

Option B :

⊕ "(IA) transportation of cash, valuables and precious metals or jewellery representing a high value on a public road, except when transported by a person at his or her own account, or by the South African National Defence Force or in the case of transport by escort of the Service;" and

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

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

Amendment of section 23 of Act 56 of 2001

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

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

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

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

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

(c) the deletion in subsection (2) of the word "and" at the end of paragraph (a), the insertion of the word "and" at the end of paragraph (b) and the addition of the following paragraph:

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

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

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

"Despite any provision to the contrary, a person in the permanent employ of the Service, [**the Directorate of Special Operations,**] the National Intelligence Agency, the South African Secret Service, the

South African National Defence Force or the Department of Correctional Services may not be registered as a security service provider whilst so employed.";

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

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

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

"(7) The Minister may, on good cause shown and on grounds which are not in conflict with the purpose of this Act and the objects of the Authority, subject to section 23A(4), exempt any person in respect of certain categories of a security service from the exclusion referred to in subsection (1)(a) or (6)."

(h) by the addition after subsection (7) of the following subsections:

"(8) The Minister must take a decision within 90 days of receipt of the application for exemption contemplated in subsection (7), and in the case of refusal provide the applicant with reasons within 30 days of the date of receipt of a request for reasons.

(9) The Minister must publish the details of any exemptions granted under subsection (7) in the Gazette."

NEW CLAUSE

Insertion of section 23A in Act 56 of 2001

Option A

"Exemption Advisory Committee"

23A. (1) The Exemption Advisory Committee is hereby established.

(2) The Committee consists of a representative of—

(a) the Authority;

(b) the Civilian Secretariat of Police;

(c) the Department of Home Affairs;

(d) the Service;

(e) the Department of Trade and Industry; and

(f) the State Security Agency.

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

(4) The Committee must make recommendations to the Minister in respect of exemptions referred to in section 23(7).

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

Option B

"Exemption Advisory Committee"

23A. (1) The Exemption Advisory Committee is hereby established.

(2) The Committee consists of a representative of—

(a) the Authority;

(b) the Civilian Secretariat of Police; and

(c) the Service.

(3) The Minister may appoint representatives of at least two other departments or government bodies where the exemption impacts on their respective function.

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

(5) The Committee must make recommendations to the Minister in respect of exemptions referred to in section 23(7).

(6) The Minister may prescribe terms of reference regarding procedural matters and the factors to be considered in relation to the function of the Committee referred to in subsection (5)."