

DEPARTMENT OF POLICE

NOTICE 295 OF 2019

Draft 1 – CONFIDENTIAL

NOTICE CALLING FOR PUBLIC COMMENT

**DRAFT AMENDMENT REGULATIONS IN TERMS OF THE PRIVATE SECURITY
INDUSTRY REGULATION ACT, 2001 (ACT NO 56. OF 2001)**

I, Bheki H Cele, Minister of Police, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No 56 of 2001) hereby intends to make amendments to the Private Security Industry Regulations, 2002.

The draft amendments are contained in the Schedule to this Notice and are hereby published for general information and written comment from interested and / or affected persons.

Any written comment must be submitted to the office of the Director: Private Security Industry Regulatory Authority. The comment must reach the said office not later than four weeks from the date of this Gazette at the following address:

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The Director
Private Security Industry Regulatory Authority
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PRETORIA

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SCHEDULE

DRAFT AMENDMENT REGULATIONS IN TERMS OF THE PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO 56. OF 2001)

Interpretation

1. In this Schedule, "the Regulations" means the Private Security Industry Regulations published under Government Notice No. R.190 of 14 February 2002.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended-

- a. by the insertion of the following definition:

"**ammunition** means ammunition as defined in section 1 of the Firearms Control Act;"

- b. by insertion after the definition of "Board" of the following definition:

"**bolt action rifle** means a hunting rifle;"

- c. by insertion after the definition of "director" of the following definition:

“firearm means a firearm as defined in section 1 of the Firearms Control Act;”;

- d. by the insertion after the definition of “firearm” of the following definition:

“Firearms Control Act means the Firearms Control Act, 2000 (Act No. 60 of 2000);”;

- e. by the insertion after the definition of “Firearms Control Act” of the following definition:

“handgun mean a handgun as defined in section 1 of the Firearms Control Act;”;

- f. by the insertion after the definition of “restricted firearm” of the following definition:

“semi-automatic means a semi-automatic as defined in section 1 of the Firearms Control Act;”;

- g. by the insertion after the definition of “semi-automatic” of the following definition:

“shotgun means a shotgun as defined in section 1 of the Firearms Control Act;”;

- h. by the insertion after the definition of “these Regulations” of the following definition:

“weapon means a weapon as defined in regulation 4 of the Code of Conduct for Security Service Providers, 2003;”.

Amendment of regulation 13 of the Regulations

3. Regulation 13 of the Regulations is hereby amended-

a. by the insertion after regulation 13 of the following regulation:

"13A. Firearms"-;

13A. (1) A security business, which renders a security service requiring the possession of a firearm, must lawfully provide a suitable firearm for that purpose and may not require or permit a security officer employed by the security business to obtain a firearm for that purpose.

(2) A security officer may, for purposes of rendering a security service in the course of his or her employment, only possess a firearm lawfully provided by his or her employer.

"(3) Any security business which intends to use firearms, must, in writing inform the Authority of its intention to possess and use firearms for the rendering of security services, along with a copy of its application submitted to the Control Firearms Registrar".

"(4) For purposes of keeping records, both new and existing security businesses intending to use or using firearms or any other weapons to render security services must, after being issued with the firearm licence, provide the Authority with the following particulars-

(a) A copy of the firearm licence issued to the security business in terms of section 20(2)(a) of the Firearms Control Act;

(b) the total number and type of licenced firearms and ammunition issued to and possessed by the security business;

(c) the total number of weapons issued to and used by security officers;

- (d) the total number of firearms and ammunition issued to the security officers when on duty or rendering security services;
- (e) full particulars of security officers issued with firearms, ammunition or any other weapon; and
- (f) any additional information that the Authority may require”.

“(5) A security business may only issue a firearm to a security officer employed by it for the rendering of a security service if-

- (a) the issuing of the firearm by the security business and possession by the security officer is in accordance with all applicable laws;
- (b) the security business is in possession of a licence issued in terms of section 20 (2) (a) of the Firearms Control Act;
- (c) the security business’s registration as a security service provider is not suspended, withdrawn or terminated for any reason as contemplated in section 26 of the Act”.
- (d) a security officer carrying and using a firearm issued to him or her by the security business complies with all applicable laws in carrying and using that firearm, and must-
 - (i) return to a responsible official of the security business, when so instructed, any document provided by it in terms of law to authorize the possession of the firearm by the security officer;
 - (ii) return the firearm and ammunition issued to him or her to a responsible official of the security business as soon as reasonably possible after the completion of his or her duties or work shift in the rendering of security services;

- (iii) at all times take reasonable steps to guard against the loss, theft or unauthorized possession or use of the firearm and ammunition issued to him or her;
- (iv) inform the responsible official of the security business of any discharge, loss or theft of the firearm or ammunition as soon as reasonably possible after the incident; and
- (v) inform the responsible official of the security business of any additional information regarding the discharge, loss or theft of the firearm or ammunition, issued to any other security officer by that security business”.

“(6) A security business which renders a security service requiring the possession or use of a handgun or shotgun, must issue such firearm to a security officer as contemplated in sub-regulation (2) only for the rendering of one or more of the following security services-

- (a) Reaction services or armed response services;
- (b) Protection of valuables which are being transported (cash-in-transit);
- (c) Private investigator services;
- (d) Environmental protection or anti-poaching services;
- (e) Close protection services; and
- (f) Protection and security services at National Key Points.

(7) A security business which renders a security service requiring the possession or use of a bolt action rifle, must issue such firearm to a security officer as contemplated in sub-regulation (2) only for the rendering of –

- (a) Environmental protection services; or
- (b) Anti-poaching services

- (8) A security business which renders a security service requiring the possession or use of a semi-automatic, must issue such firearm to a security officer as contemplated in sub-regulation (2) only for security services aimed at protecting valuables which are being transported.
- (9) The possession and use of a firearm contemplated in sub-regulation (8), by security service providers is prohibited in respect of all security services rendered, and can only be used by cash-in-transit or asset-in-transit operatives, unless recommended by the Authority and approved by Central Firearms Registrar.
- (10) The possession and use of any firearm on public or private school premises by security service providers when rendering security services, is prohibited, unless stated in a contract that security service provided will require the use of a firearm.
- (11) A security business using firearms or any other weapons to render security services must notify the Authority within 14 days of –
- (a) instances in which a firearm was discharged by a security officer in the performance of his or her duties causing death, personal injury or damage;
 - (b) every incident involving the use of a weapon causing death, personal injury or damage; and
 - (c) the number and details of firearms lost by, stolen from, sold by or transferred by security businesses or destroyed in terms of the Firearms Control Act.
- “(12) The director may cause an audit of all firearms in possession of or presumably in possession of a security business to be performed as often as may be necessary”.
- “(13) For the purposes of an audit contemplated in sub-regulation (12)- every security business must provide the information required by the director in terms of the form used, for the purposes of an audit and

return such properly completed form to the Authority within the time period determined by the director”.

“(14) A security business must, for purposes of these regulations, keep all the registers and documentation in respect of firearms and ammunition licensed to it, at its administrative office in accordance with the Firearms Control Act and the Private Security Industry Regulations”.

“(15) The firearm and ammunition register contemplated in sub-regulation 14 must contain the following particulars -

- (a) a copy of firearm licence issued to the security business in terms of section 20(2)(a) of the Firearms Control Act;
- (b) the total number and type of licensed firearms and ammunition issued to and possessed by the security business;
- (c) the total number and type of weapons issued to the security business;
- (d) the total number of weapons issued to and used by security officers;
- (e) the total number of firearms and ammunition issued to the security officers when on duty or rendering security services;
- (f) full particulars of security officers issued with firearms, ammunition or any other weapon;
- (g) the date, time, place and circumstances pertaining to the discharge of the firearm;
- (h) particulars of any damage, injury or death caused by the discharge of the firearm; and

(i) any additional information related to the incident that the Authority may request".

b. by the insertion after regulation 13A of the following regulation:

"13B. Weapons"-:

13B. (1) A security business may only issue a weapon to a security officer employed by it for the rendering of a security service if –

- (a) the security officer is well trained in the proper handling and use of the weapon and successfully trained in accordance with any applicable standards imposed by law;
- (b) the weapon is free from any defect or characteristic which may render it an inherent source of danger or capable of easily causing excessive personal harm, injury or damage;
- (c) the security officer issued with the weapon is actively monitored to ensure that he or she complies with all applicable laws;
- (d) a written record of every incident involving the use of weapon causing death, personal injury or damage is kept and monitored;
- (e) the security business issuing the weapon keeps a register in which information is recorded of every instance where a weapon is issued to, possessed or used by the security officer, at its administrative office".

"(2) A security business must store every firearm, ammunition or weapon in a safe and secure manner required by the Firearms Control Act, as well as in accordance with any directives that the director may issue in terms of these regulations".

"(3) The firearms kept in a safe must be unloaded, not readily accessible by any person other than the licence holder, authorised

person or responsible official of the security business”.

c. by the insertion after regulation 13B of the following regulation:

13C. Offences and Penalties-

13C. (1) Any security service provider who –

- (a) requires or permits a security officer employed or made available to that security service provider, to obtain or provide a firearm for the purpose of rendering a security service in the course of his or her employment;
- (b) requires a security officer employed or made available by that security service provider, or an applicant for a post as a security officer, to have a firearm licence;
- (c) is a security officer and who, for the purpose of rendering a security service in the course of his or her employment, is in possession of a firearm not lawfully provided by his or her employer;
- (d) contravenes or fails to comply with a provision of these regulations;
- (e) contravenes or fails to comply with a directive, notice or request of the director in respect of these regulations;
- (f) fails to keep a register, record or file as required in terms of these regulations, or fails to make an entry in such a register without undue delay;
- (g) fails to inform the director in writing, after the use of a firearm or weapon by a security officer if such use caused any death, personal injury or damage.”
- (h) intentionally or negligently makes a false, incorrect or misleading entry or statements in a register that has to be kept in terms of these regulations or any document contemplated in these regulations;

- (i) uses a firearm without being issued with a competency certificate, licence, permit or authorisation by the Designated Firearms Officer;
- (j) issues a security service provider who is not in possession of a firearm licence, with a firearm to render security services; and
- (k) intentionally or negligently provides any false information in complying or purportedly complying with any duty provided for in these regulations;
- (l) uses a firearm that is prohibited or restricted in terms of these regulations to render security services without the recommendation of the Authority and approval of the Control Firearms Registrar;
- (m) possesses and uses a firearm on the public or secondary or private school premises for the rendering of security services;

is guilty of an improper conduct as contemplated in regulation 24 of the Code of Conduct and on conviction liable to penalties as contemplated in regulation 25 of the Code of Conduct.

Substitution of regulation 14(9)(a)(iv) of the Regulations

4. The following regulation is hereby substituted for regulation 14(9)(a)(iv) of the Regulations:

"14(9)(a)(iv) – comply with the necessary changes, with the provisions contained in regulation 8, regulation 13, regulation **13A**, regulation **13B** and regulation **13C** of these Regulations".

5. This regulation comes into operation 150 days after the date of its publication in the "Gazette".

Short title and commencement

6. These regulations are called the Private Security Industry Amendment Regulations, 2018, and come into operation, unless otherwise specified, on the date of their publication in this *Gazette*.