

DEPARTMENT OF POLICE

NOTICE 2377 OF 2024

NOTICE CALLING FOR PUBLIC COMMENT

**DRAFT REGULATIONS RELATING TO SECURITY SERVICE PROVIDERS
RENDERING SECURITY SERVICES IN THE MARITIME SECTOR**

I, Bhekokwakhe Hamilton Cele, Minister of Police, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No 56 of 2001) hereby intend 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:

Postal address:

The Director
Private Security Industry Regulatory Authority
Private Bag X 817

PRETORIA

0001

Street address:

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Eco Glades 2 Office Park, Block B
Highveld Ext 70
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BH CELE, MP

Minister of Police

Date: 31/01/2024

SCHEDULE

DRAFT REGULATIONS RELATING TO SECURITY SERVICE PROVIDERS RENDERING SECURITY SERVICES IN THE MARITIME INDUSTRY

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PREAMBLE

WHEREAS the Private Security Industry Regulatory Authority is established for purposes of regulating the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and the interest of the private security industry itself;

AND WHEREAS service providers play an important role in protecting and safeguarding persons and properties, including security services rendered at any South African port facility and on or near South African ships;

AND WHEREAS the Minister of Police deems it necessary to make regulations relating to any matter which in terms of the Act is required or permitted to be prescribed in or in connection with the rendering of security services.

Be it published, therefore, the draft regulations contained in this Schedule for comment by interested persons.

CHAPTER 1

PURPOSE, INTERPRETATION, APPLICATION AND DEFINITIONS

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act will bear the meaning so assigned and, unless the context indicates otherwise –

"ISPS Code" means the International Ship and Port Facility Security Code as contained in Chapter XI-2 of the Safety of Life at Sea Convention of 1974 as amended;

"maritime industry participant" means—

- (a) a port operator;
- (b) a port facility operator;
- (c) the ship operator for a South African regulated ship;
- (d) the ship operator for a foreign regulated ship;
- (e) a contractor who provides services to a person mentioned in paragraphs (a) to (d); or
- (f) a port service provider, as defined in the Merchant Shipping (Maritime Security) Regulations;

"maritime security plan" means a maritime security plan as defined in regulation 3 of the Merchant Shipping (Maritime Security) Regulations;

"Merchant Shipping (Maritime Security) Regulations" means the Merchant Shipping (Maritime Security) Regulations, 2004 made in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

"National Ports Act" means the National Ports Act, 2005 (Act No. 12 of 2005);

"port facility" means an area of land or water, or land and water, within a security regulated port (including any buildings, installations or equipment in or on the area), that—

- (a) is used either wholly or partly in connection with the loading or unloading of security regulated ships; and
- (b) is identified as a port facility in the map that in, terms of regulation 46(2) of the Merchant Shipping (Maritime Security) Regulations, must accompany the maritime security plan for the security regulated port;

"port facility security officer" means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers, in terms of the ISPS Code;

"South African Maritime Safety Act" means the South African Maritime Safety Act, 1998 (Act No. 5 of 1998);

"ship security officer" means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship, including implementation and maintenance of the ship security plan and for liaison with the company security officer and port facility security officers, in terms of the ISPS Code;

"ship security plan" means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ships' stores or the ship from the risks of a security incident.

"South African ship" includes an unregistered ship having South African nationality in terms of the Merchant Shipping (Maritime Security) Regulations;

"South African waters" means the internal and territorial waters of the Republic as defined in the Merchant Shipping (Maritime Security) Regulations, 2004;

"the Act" means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001); and

"the Authority" means the Private Security Industry Regulatory Authority.

Purpose and interpretation

2. (1) The purpose of these regulations is to ensure that any person providing or intending to provide security services on behalf of a shipping company or at any port facility in South Africa –
 - (a) is registered with the Authority and trained in line with any applicable legislation and international standards;
 - (b) performs security services duties within their powers and in line with any applicable legislation and international standards;
 - (c) develops ship security plans and port facility plans in line with the Merchant Shipping (Maritime Security) Regulations and the ISPS Code;
 - (d) conducts security risk assessment for purposes of identifying threats and implementing security measures to ensure the safety and security of persons and property;
 - (e) reports any incident that occurs while performing their duties, within the period specified in these regulations; and
 - (f) does not carry or use firearms unless it is legally permitted to do so.
- (2) These regulations must be interpreted in accordance with their purpose and in a manner consistent with the Act, the South African Maritime Safety Act, Merchant Shipping Act; the National Ports Act; and any other legislation regulating security service providers in the maritime industry.

Application

3. These regulations apply to –
 - (a) any person, practising the occupation of security service provider in the maritime industry, particularly those providing security services on behalf of a shipping company or at any port facility in South Africa, for

purposes of and in connection with rendering a security service or carrying on business as a security service provider in terms of the Act; and

- (b) any person using his or her own employees as ship security officers or port security officers in connection with the rendering of security services on behalf of a shipping company or at any port facility in South Africa, to the extent provided for in the Act and these regulations.

CHAPTER 2

Requirements pertaining to the rendering of security services in the maritime sector

General functions of the Authority pertaining to persons rendering security services on behalf of shipping companies or at any port facility in South Africa

- 4. (1) The Authority shall for the purpose exercising effective control over persons rendering security services on behalf of shipping companies or at any port facility South Africa and in accordance with the Act, these regulations and other applicable laws and international standards –
 - (a) determine the requirements and rules for security service providers in the maritime industry; and
 - (b) enter into agreements with or obtain the assistance of any relevant person, institution or organ of state to conduct or assist it in conducting any investigation or perform any function in terms of these regulations.

Security service provider appointed to provide security services on board the ship within the South African waters or at port facilities

5. (1) The security business appointing any person as a security officer for purposes of performing security services on board the ship within the South African waters or at a port facility must ensure that such person –
- (a) is registered with the Authority as security service provider in terms of the Act; and
 - (b) has completed security training in terms of the Act the relevant training in respect of ship procedures and port facility operations.
- (2) The security business must ensure that the security officer referred to in sub-regulation (1) performs his or her security duties as specified in the contract of employment between the maritime industry participant and the security business.

Ship security plan and maritime security plan

6. (1) A security business that is appointed for purposes of providing security services on behalf of a shipping company or at a port facility must appoint a person who is responsible for preparing and compiling a ship security plan or maritime security plan.
- (2) The person responsible for compiling a ship security plan or port facility plan appointed in terms of sub-regulation (1) must be registered with the Authority as security service provider in terms of the Act.
- (3) The person responsible for compiling the ship security plan or maritime security plan must do so in liaison with the ship operator or any other relevant maritime industry participant contracting the security business.
- (4) The security business must submit the security ship plan or maritime security plan to the relevant industry maritime participant for approval, upon the finalisation of such plan.

(5) The security business must ensure that ship security plans and maritime security plans are prepared and compiled in accordance with the Merchant Shipping (Maritime Security) Regulations.

Security risk assessment

7. (1) A security business that is appointed for purposes of providing security services on behalf of a shipping company or at a port facility must appoint a person who is responsible for conducting a security risk assessment to assess possible risk or threat level that may be associated with the operation of the ship or the port facility.

(2) The person responsible for compiling a ship security plan or port facility plan appointed in terms of sub-regulation (1) must be registered with the Authority as security service provider in terms of the Act.

(3) The person contemplated in sub-regulation (2) must be in possession of an accredited NQF qualification in Risk Management and have at least 2 years' experience in the maritime industry, including adequate knowledge of ship or port operations.

(4) The security risk assessment must be conducted in liaison with the relevant maritime industry participant contracting such security business and it must be included in the ship security plan or maritime security plan.

Prohibition of use or carrying of firearms

8. (1) A security business that is appointed by any maritime industry participant for purposes of providing security services whether on board or near the ship within the South African waters or at a port facility, is prohibited from using or carrying on the premises where such services are rendered, except in circumstances where the contract of employment between the security business and maritime industry

participant stipulates the need for using or carrying firearms for performing particular duties.

Security Equipment

9. (1) A security business that is appointed by any maritime industry participant to render security services which requires the use of certain security equipment, must comply with the requirements as prescribed by the Authority.

(2) A person responsible for the use or monitoring of any security equipment utilised by the shipping company or the maritime industry participant must ensure that he or she reports any fault that occur or may occur and interferes with performing security services to the maritime industry participant or relevant person as soon as practically possible.

Reporting incidents to the Authority

10. (1) A security business providing security services on behalf of a shipping company board the ship or at a port facility must report any incident, injury, harm, damage or death of a person occurred during the rendering of security services to the Authority in writing, within a period of 10 days.

(2) In addition to the provisions of sub-regulation (1), the security business must comply with the Merchant Shipping (Maritime Security) Regulations in respect of reporting maritime security incidents.

Conducting inspections in the maritime sector

11. (1) An inspector of the Authority may, in exercising his or her powers in terms of section 34 of the Act, conduct an inspection in respect of persons providing security services on behalf of shipping companies or

at any South African port facilities, for purposes of ensuring compliance with these regulations.

CHAPTER 3

GENERAL PROVISIONS

12. Offences and penalties

- (1) Any person providing security service in terms of these regulations who
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 - (a) renders maritime security services without being registered in terms of the Act;
 - (b) renders maritime security services in terms of these regulations that fall outside his or her powers;
 - (c) fails to compile a ship security plan or maritime security plan contemplated in regulation (6);
 - (d) fails to conduct risk assessment contemplated in regulation (7);
 - (e) carries or uses a firearm when providing maritime security services without legal authorization;
 - (f) fails to report incidents to the Authority as contemplated in regulation (10);

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.

Transitional Provisions

13. Every person deemed to have been registered as a security service provider and providing security service on behalf of a shipping company or at any port facility in South Africa, must within a period of 180 days from the date of promulgation of these Regulations, or within such period as the Director may allow on the basis of a substantiated written application by such security service provider within a period of

60 days from the date of promulgation of these Regulations, comply with these regulations.

Short title and commencement

14. These regulations are called Draft Regulations Relating to Security Service Providers Rendering Security Services in the Maritime Sector, 2021, and come into operation, unless otherwise specified, on the date of their publication in the *Gazette*.

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