

**DEPARTMENT OF SAFETY AND SECURITY
DEPARTEMENT VAN VEILIGHEID EN SEKURITIET**

No. 1253

5 September 2003

**REGULATIONS MADE UNDER THE PRIVATE SECURITY INDUSTRY
REGULATION ACT, 2001 (ACT NO. 56 OF 2001)**

**REGULATIONS RELATING TO APPEALS AND APPLICATIONS
FOR EXEMPTIONS, 2003**

I, Charles Nqakula, Minister for Safety and Security, have, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), made the Regulations in the Schedule.

SIGNED at Pretoria on this 11th day of April 2003.

C NQAKULA
Minister for Safety and Security

SCHEDULE

INDEX

| | Regulation |
|---|-------------------|
| Definitions | 24 |
| PART I: APPEALS | |
| Reproduction of records, form used for an appeal and assistance to appellants | 25 |
| Lodging of appeal | 26 |
| Prosecution of appeal | 27 |
| PART II: APPLICATIONS FOR EXEMPTIONS | |
| Lodging of an application for exemption | 28 |
| Requirements for an application for exemption and related matters | 28 |
| Submission of applications for exemptions and consideration thereof by Minister | 29 |
| Lapsing, renewal and review of exemptions | 30 |
| PART III: GENERAL PROVISIONS | |

| | |
|--|----|
| Duties of director and role of the Authority | 30 |
| Transitional provisions | 32 |
| Repeal of regulations | 32 |
| Authoritative text | 32 |
| Short title and commencement | 32 |

ANNEXURE: FORM FOR LODGING AN APPEAL

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 -

“Act” means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and all regulations made in terms of the Act;

“Annexure” means the Annexure to these regulations;

“appeal” means an appeal to an appeal committee against a decision referred to in section 30(1) of the Act, or any other decision of the Authority in respect of which an aggrieved person is entitled to lodge an appeal in terms of the Act;

“appeal committee” means an appeal committee appointed under section 30(2) of the Act;

“appeal file” means the appeal file referred to in regulation 4(1);

“appellant” means any person who –

- (a) is lodging an appeal; or
- (b) is entitled to appeal and requests the Authority for the reproduction of the record of an improper conduct enquiry or who requests the assistance referred to in regulation 2(5);

“appellant documentation” means the documentation referred to in regulation 3(2);

“applicant” means a person lodging an application for exemption or the renewal of an exemption;

“applicant documentation” means the documentation referred to in regulation 6(1);

“application for exemption” means an application by any person in terms of section 1(2) or 20(5) of the Act to the Minister for an exemption from the operation of any or all of the provisions of the Act;

“cost of reproduction”, in relation to the reproduction of the record of an improper conduct enquiry, means R14.50 (exclusive of VAT) per A4 page for the year 2003, whereafter the amount will increase at a rate of 5% per year;

“director” includes a staff member of the Authority appointed as the acting director by the Council or to whom any of the powers or duties of the director have been delegated or assigned, as the case may be;

“exemption” means an exemption as contemplated in section 1(2) or 20(5) of the Act;

“improper conduct enquiry” means an enquiry into alleged improper conduct as contemplated in the Act;

“lodging an appeal” means the submission to the Authority of the appellant documentation in terms of these regulations;

“photocopying cost” means the amount of R0.50 (exclusive of VAT) per A4 page copied;

“postal address”, in relation to the head office of the Authority, means Private Bag X817, Pretoria, 0001;

“presiding officer” means the presiding officer of an appeal committee referred to in section 30(2)(a) of the Act;

“register of exemptions” means the register referred to in regulation 9(3)(b)(vii);

“renewal of an exemption” means the renewal of an exemption referred to in regulation 8(2)(a);

“repealed regulations” means the regulations repealed in terms of regulation 11;

“street address”, in relation to the head office of the Authority, means 481 Belvedere Street, Arcadia, Pretoria;

“these regulations” means the regulations contained in this Schedule and includes the Annexure.

PART I APPEALS

Reproduction of records, form used for an appeal and assistance to appellants

2.(1) An appellant who intends to lodge an appeal against a finding or punishment contemplated in section 30(1)(c) of the Act must, before lodging the appeal, request the Authority, against payment of the amount contemplated in sub-regulation (2), to reproduce the record of the relevant improper conduct enquiry and furnish a copy thereof to the appellant.

(2) The amount payable by an appellant for the record of an improper conduct enquiry is calculated on the basis of an estimation by the Authority of the number of pages of the record in question, multiplied by the cost of reproduction.

(3) The Authority must as soon as possible after an appellant has paid the amount contemplated in sub-regulation (2), cause a copy of the record in question to be reproduced and furnished to the appellant, subject, if applicable, to any further payment by the appellant in terms of sub-regulation (4).

(4) If it appears after the reproduction of the record in question that there is a difference between the amount paid by the appellant as calculated in terms of sub-regulation (2) and the amount that the appellant should have paid on the basis of the actual number of pages of the record -

- (a) the Authority must on demand refund to the appellant any amount overpaid by the appellant; or
- (b) the appellant must on demand pay to the Authority any amount still due to the Authority.

(5) The Authority must at the request of an appellant provide the appellant with -

- (a) a copy of the form contained in the Annexure; and
- (b) the information, as well as copies of relevant documentation, against payment of the photocopying cost in respect thereof, to which the appellant is entitled for the purposes of completing the form in question, and which the Authority is able to provide.

Lodging of appeal

3.(1) An appellant lodges an appeal at the street address of the head office of the Authority, or by registered post remitted to the postal address of the head office of the Authority, within the period of 60 days referred to in section 30(1) of the Act.

(2) An appeal -

- (a) is lodged in a written form corresponding materially to the form contained in the Annexure, which must be completed in full and be accompanied by all applicable documentation referred to in the form; and
- (b) must set out fully and clearly the grounds of appeal as well as any arguments and representations which the appellant wishes to advance in support of the appeal.

(3) The Authority must provide an appellant -

- (a) with a written acknowledgement of receipt of the appellant documentation; and

- (b) with a reasonable opportunity to rectify the appellant documentation or add relevant documentation before the submission of the appeal file to the appeal committee.

Prosecution of appeal

4.(1) The Authority must, within 30 days after an appellant has lodged an appeal referred to in section 30(1)(c) of the Act, and within 14 days after an appellant has lodged any other appeal, submit the appeal file to the presiding officer, containing -

- (a) the appellant documentation;
- (b) the documentation contemplated in regulation 3(3)(b) (if any);
- (c) the record of the improper conduct enquiry reproduced by the Authority, if it is an appeal referred to in section 30(1)(c) of the Act;
- (d) copies of relevant documentation in possession of the Authority relating to the decision appealed against; and
- (e) the response which the Authority wishes to submit in respect of the appeal.

(2) The presiding officer may at any stage after submission of the appeal file, request the Authority for the submission of -

- (a) further documentation, information, submissions or reasons of the Authority relating to the decision against which the appeal is lodged; and
- (b) further documentation, information or submissions of the appellant relating to the appeal.

(3) The Authority must within the period determined for this purpose by the presiding officer making the request referred to in sub-regulation (2), or if no such period has been determined, within a reasonable period -

- (a) submit the requested documentation, information, submissions or reasons to the presiding officer;
- (b) communicate the request of the presiding officer referred to in sub-regulation (2)(b) to the appellant in writing; and
- (c) submit to the presiding officer any documentation, information or submissions submitted by the appellant to the Authority in response to the request of the presiding officer.

(4) The appeal committee -

- (a) may deal with an appeal in terms of this regulation in any manner it deems fair and just and without hearing any oral evidence, representations or submissions;
- (b) must deal with an appeal within a reasonable time; and
- (c) must, in considering the merits of an appeal, properly consider, in addition to any other relevant fact or consideration -

- (i) the objects of the Act and of the Authority; and