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BOARD NOTICE

BOARD NOTICE 141 OF 2001**REGULATIONS MADE UNDER THE SECURITY OFFICERS ACT, 1987
(ACT NO. 92 OF 1987)**

The Security Officers' Interim Board has, with the concurrence of the Deputy Minister for Safety and Security, acting on behalf of and on assignment by the Minister for Safety and Security, under section 32(1) of the Security Officers Act, 1987 (Act No. 92 of 1987), made the Regulations in the Schedule hereto.

SCHEDULE**AMENDMENT OF REGULATIONS MADE UNDER THE SECURITY
OFFICERS ACT, 1987 (ACT NO. 92 OF 1987)**

Definition

1. In this Schedule "the Regulations" means the regulations published by Government Notice No. R. 797 in *Government Gazette* No. 12413 of 2 April 1990, as amended.

Commencement

2. The Regulations contained in this Schedule will come into effect on 1 November 2001.

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended -

- (a) by the substitution for the definition of "prescribed fees" of the following definition:

"prescribed fees" means the fees referred to in regulation 9(2)";

- (b) by the insertion after the definition of "police official" of the following definition:

"prescribed amount' in regard to a security business means the applicable amount contemplated in regulation 9(3), and in the case of any person not acting as a security business the amount contemplated in regulation 9(4)";

- (c) by the insertion after the definition of "Registrar of the Board" of the following definition:

"security business' means a company, close corporation, sole proprietor, partnership or business trust, or any other entity or body, which is not a natural person, registered as a security officer";

- (d) by the insertion after the definition of "security business" of the following definition:

"serve', in relation to any document required in terms of these regulations to be served on any person, means to deliver, or offer to deliver, a copy of the document personally to such person, or at such person's employment, business or residential address to any person over the age of 16 years that resides or is employed at such address".

Substitution of regulation 7 of the Regulations

4. The following regulation is hereby substituted for regulation 7 of the Regulations:

"Payment of prescribed amounts and related matters

7.(1) Every security business must within seven (7) days after the end of each calendar month furnish to the Board a document signed or authenticated by a responsible person acting on behalf of such security business, a return with the full name, identity number, the registration number of a person registered by the Board in terms of section 11(3) of the Act, and the period of service during that month, of every person employed, used, deployed or made available by it for the rendering of a security service during that month or any part of that month.

(2) The prescribed amount must, subject to section 18(4)(a) of the Act, be paid to the Board either in accordance with sub-regulation (3) or sub-regulation (4) of this regulation.

(3)(a) The full prescribed amount for a calendar year must, subject to this sub-regulation, be paid to the Board before or on 1 April of the calendar year concerned.

(b) In the case of a security business becoming registered in terms of section 11 of the Act on or after 1 April in a given calendar year, the prescribed amount in respect of that year must be paid as provided for in sub-regulation (4).

(c) In the case of a security business intending to pay in accordance with paragraph (a) of this sub-regulation –

- (i) notice of such an intention must be given to the Board in writing on or before 20 January of the calendar year in question, failing of which the prescribed amount will be payable as provided for in sub-regulation (4) of this regulation;
- (ii) the prescribed amount payable for the calendar year is, subject to the provisions of paragraph (e), determined in accordance with regulation 9(3) on the basis of the highest number of persons employed, used, deployed or made available by the security business in question for the rendering of a security service at any time in any of the three calendar months preceding April of the calendar year in question and it is deemed for the purposes of calculating the prescribed amount for the calendar year in question that the said number of persons will be so employed, used, deployed or made available for every month of that calendar year.

(d) The Board must, within a reasonable time after the end of each calendar year, calculate the amount that should have been paid in accordance with regulation 9(3) by every security business which has elected to pay in terms of the method provided for in this sub-regulation, taking into account the actual number of persons employed, used, deployed or made available by the security business for the purpose of rendering a security service in each of the twelve (12) months of the calendar year in question, and may, by a written notice served on a security business, require from that business any additional information or documentation needed by the Board for this calculation to be furnished to it within the period provided for in such notice.

(e) If, after the calculation referred to in paragraph (d) of this sub-regulation, there is a difference between the calculated amount and the

amount already paid by the security business in terms of paragraph (c)(ii) of this sub-regulation-

- (i) the Board must refund to the security business any amount overpaid by it within thirty (30) days after the calculation has been completed; and
- (ii) the security business in question must pay to the Board any amount owing to the Board in terms of the said calculation within thirty (30) days after a notice from the Board in this regard has been served on it.

(4) A security business which does not pay the prescribed amount to the Board in terms of sub-regulation (3) of this regulation, must pay to the Board within seven (7) days after the end of each calendar month, commencing in January and ending in December, the applicable prescribed amount arrived at in terms of regulation 9(3).

(5) Nothing in this regulation prevents a written agreement being entered into between the Board and any security business regarding the method and date of payment of the prescribed amount.

(6) For the purpose of the un-expired portion of the calendar year January to December 2001 the prescribed amount will be payable only in terms of sub-regulation (4).

(7) Any security business which fails to pay to the Board, within the period allowed for such payment -

- (a) the prescribed amount payable in terms of this regulation;
- (a) the prescribed amount payable in terms of an agreement referred to in sub-regulation (5);
- (c) an amount contemplated in sub-regulation (3)(e)(ii) of this regulation; or
- (d) an amount deducted by it in terms of section 18(4)(a) of the Act -

must pay to the Board -

- (a) the unpaid amount referred to above;
- (b) interest on the unpaid amount at the rate determined from time to time in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975); and
- (c) a penalty arrived at by calculating ten (10) per cent of that sum arrived at by adding to the unpaid

amount the interest accrued thereon to date of calculation of the penalty:

Provided that if the Board is satisfied that the failure to pay or pay over any amount in terms of this regulation was not due to an intent to evade or postpone payment or otherwise evade obligations in terms of this regulation or the Act, it may remit the whole or part of the penalty imposed in terms of paragraph (c) of this sub-regulation.

(8) Any amount of interest and any penalty owing to the Board in terms of sub-regulation (7) will be regarded as part of the prescribed amount as contemplated in section 18(1) and section 18(2) of the Act.

(9) Any security business which –

- (a) fails to provide the Board with the return contemplated in sub-regulation (1) within the period allowed;
- (b) fails to provide the Board with a return that materially complies with the requirements contained in sub-regulation (1);
- (c) intentionally or negligently submits a return to the Board which is false or misleading in any material respect;
- (d) fails to provide the Board within the period allowed with the additional information required by the Board in terms of sub-regulation (3)(d); or
- (e) fails to deduct an amount as contemplated in section 18(4)(a) of the Act from the remuneration of a security officer that it should have deducted,

will be guilty of an offence and on conviction liable to a fine not exceeding R1 000.

(10) Any director, member, owner, partner, trustee, administrator or manager, according to the case, of a security business-

(a) who fails to take all reasonable steps to ensure that the security business of which he or she is a director, member, owner, partner, trustee, administrator or manager, according to the case-

- (i) complies with an obligation in terms of sub-regulation (1);
- (ii) complies with an obligation in terms of sub-regulation (3)(d);
- (iii) complies with an obligation in terms of section 18(4)(a) of the Act to deduct an amount from the remuneration of a security officer;

- (iv) does not contravene a provision of sub-regulation (9); or

(b) who intentionally or negligently submits a return referred to in sub-regulation (1) to the Board or allows such a return to be submitted to the Board on behalf of the security business in question, which is false or misleading in any material respect –

will be guilty of an offence and on conviction be liable to a fine not exceeding R1 000 or to imprisonment for a period not exceeding six (6) months.”

Repeal of regulation 8 of the Regulations

5. Regulation 8 of the Regulations is hereby repealed.

Amendment of regulation 9 of the Regulations

6. The following regulation is hereby substituted for regulation 9 of the Regulations:

“Prescribed fees and prescribed amounts

9.(1) Value Added Tax (VAT) must be added to any fee or amount of money referred to in this regulation.

(2) The prescribed fee contemplated in section 11(1)(b) of the Act will be as follows –

(a) Every application for registration as a security officer by a security business for the purposes of regulation 2:
R2 000.00.

(b) Every application for registration as a security officer not falling under paragraph (a):
R42.20

(3) The prescribed amount contemplated in section 18(1) of the Act must, in the case of a security business registered as a security officer, be determined by applying the following formula:

$$T = X + (Y \times Z)$$

Where:

- T = the total amount payable to the Board per calendar month.
X = the amount of R250.00 per calendar month or any part thereof.
Y = the number of persons employed, used, deployed or made available to render a security service for a calendar month or any part thereof.
Z = the amount of R0.70 per calendar month or any part thereof.

- (4) The prescribed amount contemplated in section 18(1) of the Act must in the case of a person registered as a security officer, not acting as a security business, be arrived at as follows:

R7.00* per calendar month or any part thereof.

Authoritative text

7. The provisions of the English text of the Regulations will prevail in the case of a difference between the English text and any other text.

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* The total amount inclusive of VAT will be R7.98.

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