

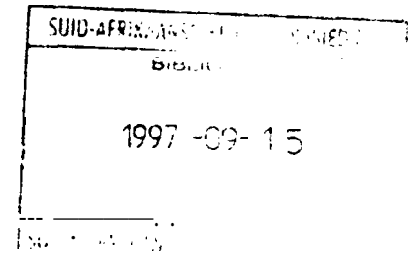
REPUBLIC OF SOUTH AFRICA

SECURITY OFFICERS AMENDMENT BILL

(As amended by the Portfolio Committee on Safety and Security (National Assembly))

(MINISTER FOR SAFETY AND SECURITY)

[B 25B—97]



REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP SEKURITEITSBEAMPTES

(Soos gewysig deur die Portfolio Komitee oor Veiligheid en Sekuriteit (Nasionale Vergadering))

(MINISTER VIR VEILIGHEID EN SEKURITEIT)

[W 25B—97]

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Security Officers Act, 1987, in order to substitute the definition of “Board”; to determine the seat of the head office of the Interim Board; to make provision for the establishment and the constitution of an Interim Board to exercise control over the occupation of security officer and to maintain, promote and protect the status of that profession until a new permanent Security Officers Board has been established; to determine the objects, functions, powers and duties of the Interim Board; to provide that the Minister for Safety and Security shall conduct certain consultation before the appointment of the members of the Interim Board; to authorise the Interim Board to submit reports to the Minister for Safety and Security regarding the statutory functions thereof; to provide for a calling of a meeting of the Interim Board upon receipt by the chairperson of a request by seven or more members; to make provision for a quorum for a meeting of the Interim Board; to provide for the establishment of an executive committee for the Interim Board; to determine the number of board members required for a decision to withdraw the registration of a security officer; to substitute the long title of that Act; and to regulate certain transitional matters; and to make provision for certain matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 92 of 1987, as amended by section 1 of Act 119 of 1992 and section 1 of Act 64 of 1996

1. Section 1 of the Security Officers Act, 1987 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (1) for the definition of “Board” of the following definition:

“ ‘Board’ means the Security Officers’ Interim Board established by section 2;”.

Substitution of section 2 of Act 92 of 1987

2. The following section is hereby substituted for section 2 of the principal Act: 10

“Establishment and objects of Security Officers’ Interim Board

2. (1) There is hereby established a juristic person to be known as the Security Officers’ Interim Board.

(2) The objects of the Board shall be to exercise control over the occupation of security officer, **[and]** to maintain, promote and protect the status of that occupation, and to ensure that the industry acts in the public interest, and to submit reports from time to time to the Minister on the regulation of the security officer industry.

(3) The head office of the Board shall be in Pretoria.”.

Amendment of section 3 of Act 92 of 1987, as amended by section 1 of Act 25 of 1990 and section 2 of Act 119 of 1992

3. Section 3 of the principal Act is hereby amended by—

- (a) the deletion of the word “and” at the end of paragraph (j); and
- (b) the insertion after paragraph (j) of the following paragraph:

“(jA) advise the Minister as to—

- (i) the establishment of a new permanent Security Officers’ Board which shall be so constituted that provision is made for an increased representation of the security services industry and of the community; 15
- (ii) the funding of the Board and the utilisation of its funds; 20
- (iii) the amendment of this Act—
 - (aa) in order to promote and encourage professionalism in the security services industry, the principles of democracy, transparency, equality, accessibility, the satisfaction of the needs of the community with regard to security services and the involvement of the community in the achievement of the objects of the Board; 25
 - (bb) in order to provide for the drawing up of an enforceable code of conduct for security officers which prescribes the procedures for its enforcement, including the imposition of differential penalties in respect of the different categories of security officers; and 30
- (iv) any other matter deemed by the Board necessary or expedient to be considered by the Minister in connection with the provisions of this Act, or the application thereof, and any other matter relating to the security services which has been referred by the Minister to the Board for the advice and recommendations of the Board; and”.

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Insertion of section 3A in Act 92 of 1987

4. The following section is hereby inserted after section 3 of the principal Act:

“Submission of Bill to Parliament 40

3A. The Minister shall within a period of 18 months after the date of commencement of the Security Officers Amendment Act, 1997, draft a new Bill on the occupation of security officer and related matters with the purpose of submitting it to Parliament.”.

Substitution of section 4 of Act 92 of 1987, as amended by section 3 of Act 119 of 1992

5. The following section is hereby substituted for section 4 of the principal Act:

“Constitution of Interim Board

4. (1) The Board shall, subject to section 6, consist of—

- (a) six security officers of whom three shall be representative of employers and three representative of employees; 50

- (b) three persons who shall be users of security services;
- (c) any three additional persons who are fit and proper persons to serve on the Board; and
- (d) a person who in the opinion of the Minister is an independent person, as the chairperson, in consultation with the Portfolio Committee on Safety and Security. 5
- (2) The members of the Board referred to in paragraphs (a), (b) and (c) of subsection (1) shall, subject to subsection (4), be appointed by the Minister after such consultation with national associations, organisations, trade unions or federations as, in the opinion of the Minister, are representative of employees who are security officers, employers of such employees and users of security services, in consultation with the Portfolio Committee on Safety and Security, and after consideration by the Minister of submissions by other persons who are security officers or users of security services, and whom the Minister has invited by notice in the *Gazette* to make submissions in the manner and within the period determined by the Minister in the notice. 10
- (3) The member of the Board referred to in paragraph (d) of subsection (1) shall be paid such remuneration and allowances from State funds as shall be determined by the Minister in consultation with the Portfolio Committee on Safety and Security. 15
- (4) Upon the expiry of the period specified in terms of subsection (2) the Minister shall cause to be compiled a list of names of persons whose names were submitted to him or her in pursuance of the relevant invitation and shall submit such names to the Portfolio Committee on Safety and Security.”. 20 25

Amendment of section 6 of Act 92 of 1987, as amended by section 5 of Act 119 of 1992

6. Section 6 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 30
- “(3) [(a)] If a member of the Board ceases to hold office the Minister shall, having regard to section 4(1) [**but subject to paragraph (b) of this subsection**], appoint a person to fill the vacancy for the unexpired portion of such former member’s term of office.
- [(b) Subsection (1)(a) of section 4, in so far as that subsection requires the 35 members referred to therein to be selected from a list compiled under subsection (4) of that section, shall not apply in respect of any appointment contemplated in paragraph (a) of this subsection.]”.**

Substitution of section 7 of Act 92 of 1987

7. The following section is hereby substituted for section 7 of the principal Act: 40

“Chairperson and vice-chairperson

- 7. (1)** The Board shall at its first meeting and thereafter as often as it may become necessary elect a member as vice-chairperson of the Board.
- (2) When the chairperson is absent or is unable to perform his or her functions as chairperson or whenever the office of chairperson is vacant, the vice-chairperson shall act as chairperson during such absence or incapacity or until a chairperson is appointed, and if both the chairperson and the vice-chairperson are absent or unable to perform the functions of the chairperson or whenever both the offices of chairperson and the office of vice-chairperson are vacant, the Board shall elect any other member to act as chairperson during such absence or incapacity or until a chairperson is appointed or a vice-chairperson is elected.”. 45 50

Amendment of section 8 of Act 92 of 1987

8. Section 8 of the principal Act is hereby amended—

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

“(b) *the [chairman] chairperson* shall within seven days after he or she has been requested in writing by at least [five] seven members of the Board to do so, convene a meeting of the Board.”; and

(b) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) [five] seven members of the Board shall constitute a quorum for a meeting of the Board; and”.

Amendment of section 9 of Act 92 of 1987, as amended by section 6 of Act 119 of 1992

9. Section 9 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words:

“The Board may appoint an executive committee consisting of at least [three] four of the members of the Board.”.

Amendment of section 15 of Act 92 of 1987

10. Section 15 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Board shall not withdraw the registration of a security officer otherwise than on the authority of a resolution of the Board taken by at least [six] seven 20 members of the Board present at a meeting of the Board.”.

Substitution of long title of Act 92 of 1987

11. The following long title is hereby substituted for the long title of the principal Act:

“To provide for the establishment of a board, to be known as the Security Officers’ Interim Board, to deal with and to exercise control over the occupation of security 25 officer, and for matters incidental thereto.”.

Transitional provisions

12. (1) In this section—

“former Board” means the Security Officers’ Board, referred to in section 2 of the principal Act as it read immediately prior to the commencement of section 2 of this 30 Act;”; and

“Interim Board” means the Security Officers’ Interim Board, established by section 2 of this Act.

(2) (a) With effect from the commencement of section 2 of this Act—

(i) all assets, rights, obligations and liabilities of the former Board shall vest in 35 the Interim Board;

(ii) anything done or any decision or steps taken by the former Board in terms of any provision of the principal Act, shall be deemed to have been done or taken, by the Interim Board;

(iii) any reference in any law or document to the former Board shall be construed 40 as a reference to the Interim Board.

(b) As soon as possible after such commencement the Interim Board shall, on application by any person, effect free of charge, except where such charge is levied in terms of any law, all such changes or endorsements on any document which was issued by the former Board or which reflects a transaction to which that Board was a party 45 immediately prior to such commencement, as are necessary to give effect to this subsection.

Short title and commencement

13. This Act shall be called the Security Officers Amendment Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 50

**MEMORANDUM ON THE OBJECTS OF SECURITY OFFICERS
AMENDMENT BILL, 1997**

BACKGROUND

1. During October 1994, on the initiative of the security industry, a Security Industry Forum was held to discuss the future of the industry within a new democratic order. The years that preceded the 1994 elections were characterised by a general lack of trust and participation in the statutory body, the Security Officers' Board, established by the legislature to deal with and to exercise control over the occupation of security officer. In this respect it was indeed clear that employees, who constitute the majority within the occupation, were largely unrepresented. The Security Industry Forum provided a mechanism to address these and other issues.

2. The industry elected three task groups with a clear mandate to make certain recommendations in respect of various issues that were identified during the Forum. The respective task groups submitted recommendations, but it soon became apparent that within the industry considerable disagreement exists with respect to various issues.

3. The Department then proceeded to draft a Draft Bill, and to publish it for comment in the *Gazette*. An Interim Board was proposed, with the function of advising the Minister on various aspects with a view to the amendment of the Act. This proposal is supported by various roleplayers with interests related to the security industry.

OBJECTS OF BILL

1. The object of this Bill is to amend the Security Officers Act, 1987, and to provide for an Interim Board.

2. The proposed legislation—

2.1 establishes such an Interim Board;

2.2 extends the objects thereof in order to advise the Minister on adaptations and amendments to the Act;

2.3 provides for the constitution of such an Interim Board; and

2.4 generally provides for certain other amendments (including transitional provisions) which are deemed necessary as a result of the establishment of the Interim Board.

3. The objects of the various clauses of the Bill are briefly the following:

3.1 Clause 1

The definition of "Board" is replaced by "Security Officers' Interim Board".

3.2 Clause 2

The Security Officers' Board is currently the only board of this nature in the Republic. The Bill proposes that the Board be abolished and that a board, to be known as the Security Officers' Interim Board, be established. One of the objects of the Interim Board, for which provision is being made in the Bill, is to ensure that the industry acts in the public interest, and to submit reports from time to time to the Minister on the regulation of the security officer industry. In addition thereto, it is provided that the Board shall be situated in Pretoria. The Board has recently started establishing offices in different parts of the country.

3.3 Clause 3

The functions of the Interim Board are extended to include advising the Minister on certain aspects which are specifically mentioned, with a view to a new vision for the industry and the Board. In particular, the promotion of matters such as democracy,

transparency, equality, accessibility, the satisfying of the needs of the community, and the involvement of the community, are emphasised.

3.4 Clause 4

Provision is made that the Minister shall draft a new Bill on the occupation of security officer, for the purpose of submission thereof to Parliament, within a period of 18 months after the date of commencement of the Security Officers Amendment Act, 1997.

3.5 Clause 5

This clause provides for the constitution of the said Interim Board. The present membership is increased, and provision is made for the appointment of an independent person as chairperson. Provision is also made for the appointment of members in consultation with the Portfolio Committee on Safety and Security. Provision is also made for proper consultation with interested parties.

3.6 Clause 6

This clause makes new provision regarding the filling of vacancies on the Interim Board.

3.7 Clause 7

The amended constitution of the Board, especially with regard to the appointment of an independent chairperson by the Minister, necessitates the consequential amendment of section 7 of the principal Act.

3.8 Clause 8

In view of the amendment of the membership of the Interim Board, new quotas with respect to the convening of a meeting of the Interim Board and a quorum for such a meeting are determined.

3.9 Clause 9

The membership of the executive committee of the Interim Board is also amended with a view to the extension of the functions of the Interim Board.

3.10 Clause 10

Due to the amendment of the membership of the Interim Board, a resolution for the withdrawal of registration of a security officer will be required to be taken by at least 7 members (a majority) of the Interim Board.

3.11 Clause 11

This clause substitutes the long title to reflect certain amendments to the Act.

3.11 Clause 12

This clause provides for certain transitional provisions which are deemed necessary due to the implications created by the establishment of an Interim Board. It makes provision for the transfer of the rights and liabilities of the former Board, confirms decisions or steps taken and documents produced by the former Board, and makes provision for changes or endorsements with respect to acts of the former Board.

3.11 Clause 13

This clause contains the short title and makes provision for the commencement of the Amendment Act.

4. In the opinion of the State Law Advisers and the Department the Bill should be dealt with in accordance with section 75 of the Constitution.

Persons and Departments consulted on the Bill:

The security industry;
Employers of security officers;
Employees of such employers.