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## GOVERNMENT NOTICES GOEWERMENSKENNISGEWINGS

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### MINISTRY FOR SAFETY AND SECURITY MINISTERIE VIR VEILIGHEID EN SEKURITEIT

No. R. 188

14 February 2002

### MINISTRY FOR SAFETY AND SECURITY

#### PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO. 56 OF 2001)

#### APPEAL REGULATIONS, 2002

The Minister for Safety and Security has under section 35, read with section 30(4), of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), made the regulations set out in the Schedule.

### SCHEDULE

#### APPEAL REGULATIONS, 2002

#### ARRANGEMENT OF REGULATIONS

REGULATION	HEADING
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Part I	Appeals Secretary
2.	Designation and status of Appeals Secretary
3.	General functions of Appeals Secretary
Part II	Lodging of appeals
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5.	Submission of appeal files
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Annexure	Form for Lodging of Appeal

#### Definitions

1. In this Schedule "the Act" means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), any word or expression to which a meaning has been assigned in the Act shall have that meaning, and unless the context indicates otherwise –

"Annexure" means the Annexure to these Regulations;

"appeal" means an appeal against a decision referred to in section 30(1) 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 3(c);

"Appeals Secretary" means the Appeals Secretary referred to in regulation 2(1)(a);

**"appellant"** means a person lodging an appeal;

**"appellant documentation"**, in relation to an appellant, means all the documentation referred to in regulation 4(2), which is submitted by the appellant on the lodging of appeal;

**"official address"**, in relation to the Appeals Secretary, means Private Bag X94, Pretoria, 0001;

**"party"**, in relation to an appeal, means the appellant or the respondent;

**"presiding officer"**, in relation to an appeal committee, means the presiding officer of the appeal committee referred to in section 30(2)(a) of the Act;

**"respondent"**, in relation to an appeal –

- (a) against a decision referred to in paragraph (a) or (b) of section 30(1) of the Act, means the Authority; and
- (b) against a finding or the imposition of a punishment, referred to in paragraph (c) of the said section 30(1), means the person who presided at the improper conduct proceedings involved referred to in section 29(2) of the Act, or the Authority, as the case may be;

**"respondent documentation"**, in relation to a respondent, means all the documentation, responses and submissions referred to in regulation 4(4), which is submitted by the respondent in response to any particular appeal documentation.

## PART I

### APPEALS SECRETARY

#### Designation and status of Appeals Secretary

- 2. (1) The Minister will from time to time designate a suitably qualified person as Appeals Secretary.
- (2) The Appeals Secretary –
  - (a) is obliged to respect and promote the independence of any appeal committee;
  - (b) may not disclose to the Authority or any other person any confidential information on the performance of functions by an appeal committee, except where such information is made known by the appeal committee itself, or where such disclosure is expressly permitted or requested by a presiding officer concerned, or is required in terms of a law (including these Regulations) or any order of a court; and
  - (c) is exclusively empowered to make known decisions and directives of an appeal committee, and to liaise or communicate with the Authority or the general public on behalf of such committee.

#### General functions of Appeals Secretary

- 3. The Appeals Secretary performs the functions in connection with an appeal committee and its proceedings imposed on him or her by these Regulations and, from time to time, by the Authority or a presiding officer concerned, and is in particular responsible-
  - (a) for the reproduction of records and related matters, and the receipt of amounts payable in respect thereof, as contemplated in section 30(5) of the Act, and the furnishing of official copies thereof which may be required for an appeal, to a person intending to lodge an appeal in accordance with regulation 4;

- (b) to assist any appellant in the completion of documentation for the lodging of an appeal, or in any other manner reasonably required by an appellant for the proper lodging of the appeal;
- (c) for the proper preparation of an appeal file to be submitted to an appeal committee containing all appellant and respondent documentation;
- (d) for communications and liaison with the presiding officer concerned on the manner of submission of appeal files and copies thereof to the appeal committee members and for any notifications to the parties;
- (e) for administrative and secretarial support concerning appeals and communicating decisions of appeal committees.

## PART II

### LODGING OF APPEALS

#### Manner of lodging of appeals

4. (1) An appellant lodges an appeal, in accordance with subregulation (2) at the office of the Appeals Secretary, or by registered post remitted to the official address of the Appeals Secretary within the period of 60 days set out in section 30(1) of the Act.
- (2) An appeal is lodged in a written form corresponding to the form set out in the Annexure, which must be fully completed and be accompanied by copies of all documents referred to in the Annexure.
- (3) The Appeals Secretary must, in any case where he or she notices that the appeal documentation reveals –
- (a) any non-compliance with the requirements of subregulation (2); or
  - (b) that the person lodging the appeal does not qualify as a person aggrieved as contemplated in section 30(1) of the Act,
- forthwith inform the person who lodged the appeal of such finding and –
- (i) in a case contemplated in paragraph (a), request rectification within seven days with an offer for assistance contemplated in regulation 3(b) (if possible); or
  - (ii) in a case contemplated in paragraph (b), request whether the person wishes nevertheless to prosecute the appeal or to withdraw the appeal.
- (4) (a) The Appeals Secretary must, where applicable, as soon as possible after receipt of appeal documentation (including any rectifications contemplated in subregulation (3)(i)), provide the respondent involved with copies thereof, and request a full written response thereto within a period of 10 days from the date of receipt.
- (b) The Appeals Secretary must in any such request, in addition refer to –
- (i) aspects of the appellant documentation in need of rectification which have not been rectified by the appellant by virtue of subregulation (3)(i); and
  - (ii) a finding contemplated in subregulation (3)(b) which the appellant has after notification thereof in terms of subregulation (3)(ii) not accepted,

and request the respondent to submit written responses thereto or submissions thereon.

- (5) The amount payable by appellants to the Authority in respect of reproduction of records and related matters in the lodging and prosecution of appeals, is R13,50 per A4 page for the year 2002, whereafter the amount will increase at a rate of 5 % per year.

### **PART III**

#### **PROSECUTION OF APPEALS**

##### **Submission of appeal files**

5. The Appeals Secretary must as soon as possible after receipt of all respondent documentation provide the appellant with copies thereof and submit the appeal file to the presiding officer concerned.

##### **Procedures**

6. (1) An appeal must –

- (a) set out fully and clearly the grounds of appeal as well as any arguments and representations which may be advanced in support of the appeal; and
- (b) be accompanied by proof from the Authority that the appellant has paid to the Authority the reasonable amount determined by the Authority in respect of the preparation of a transcript of the improper conduct proceedings if there is an appeal against a conviction of improper conduct or a penalty imposed as a result of such a conviction.

- (2) The respondent must, at the request of the presiding officer, submit to the presiding officer in writing the reasons for the decision against which an appeal has been lodged and any submissions which the respondent wishes to make to the presiding officer in regard to the grounds of the appeal.

- (3) The appeal committee may deal with an appeal in terms of this regulation in any manner it deems fair and without hearing any oral evidence, representations or submissions.

- (4) The appeal committee may, after consideration of the grounds of the appeal and any other information at its disposal –

- (a) dismiss an appeal that does not comply with the requirements contemplated in subregulation (1) or condone any non-compliance with such requirements;
- (b) direct that the appellant be given an opportunity to remedy any defect in the appeal;
- (c) direct that the respondent, the appellant or the Authority furnish the appeal committee with further information;
- (d) confirm, set aside or vary the decision against which an appeal has been lodged or substitute for such decision any other decision which in its opinion ought to have been taken;
- (e) give any order which is appropriate and just in the circumstances.

**Authoritative text**

7. The provisions of the English text of these regulations will prevail in the case of a difference between the English text and the text in any other official language.

**Short title and commencement**

3. These Regulations are called the *Appeal Regulations, 2002*, and come into operation on the date on which the Act comes into operation.

## ANNEXURE

### PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO. 56 OF 2001) PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY

#### Appeal Regulations, 2002

#### FORM FOR LODGING OF APPEAL (Regulation 4(2))

**Note:**

- (a) In this form "the Act" means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), and any word or expression to which a meaning has been assigned in the Act, or in the Appeal Regulations, 2002, shall have that meaning.
- (b) This form must be completed in clear written or typed form.
- (c) Appeals must be lodged with the Appeals Secretary at his or her office, or by registered post remitted to the following official address:  
  
The Appeals Secretary (Private Security Industry)  
Private Bag X 94,  
Pretoria 0001
- (d) In terms of section 38(3)(c) of the Act, any person who in any application, inquiry, improper conduct proceedings, appeal or other proceedings in terms of the Act or the Levies Act, willfully furnishes information or makes a statement which is false in any material respect, is guilty of an offence.

**1. PARTICULARS OF APPLICANT**

- 1.1 Full name, address and registration particulars (if any) of appellant in case of a natural person: .....
- 1.2 Full name, address and registration particulars (if any) of appellant in case of an entity (partnership, business trust, foundation, company, close corporation or other corporate or unincorporated body of persons): .....
- 1.3 Full name, address and registration particulars (if any) of person acting on behalf and on authority of entity: .....

**(Attach certified, dated and signed copy of decision or resolution of entity authorising lodging of appeal; address furnished must include physical, postal, fax or electronic addresses at which service of appeal documentation will be accepted).**

- 2. PARTICULARS OF DECISION APPEALED AGAINST (section 30(1) of the Act), including decision date and respondent involved.**

- 2.1 (a) Refusal of application for registration: .....
- .....
- (b) Suspension of registration: .....
- .....
- (c) Withdrawal of registration: .....
- .....
- (d) Finding of improper conduct: .....
- .....
- (e) Punishment imposed in consequence of finding of improper conduct: .....
- .....

**(Delete the inapplicable paragraphs; include copies of all official documentation issued or received in respect of decisions appealed against, transcripts of relevant recorded official proceedings (if any), and exhibits).**

- 2.2 Full details of appeal grounds, including, where paragraph 2.1(e) is applicable, circumstances/grounds for change/mitigation of punishment: .....
- .....
- .....
- .....

**(May be set out in a separate attachment, which may include separate submissions by legal representative or other adviser of Appellant).**

### 3. SIGNATURES

- 3.1 (Signed) .....
- Appellant

On behalf of: .....

.....

.....

(Particulars of entity involved (if any) and person duly authorised to represent the entity.)

.....

Date

- 3.2 **APPEALS SECRETARY**  
**Receipt of lodging of appeal affirmed,**  
**subject to regulation 4**

(Signed) .....

Appeals Secretary

.....

Date

.....

Appeal file/registration number