

No. 306

28 February 2003

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

IMPROPER CONDUCT ENQUIRIES REGULATIONS, 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 Cape Town on this 21st day of February 2003.

C NQAKULA
Minister for Safety and Security

SCHEDULE

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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 otherwise indicates –

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

“charge”, in the relation to a security service provider, means an allegation of improper conduct made with a view to the institution of an enquiry;

“Code of Conduct” means the Code of Conduct for Security Service Providers, 2003 prescribed in terms of section 28 of the Act;

“complainant” means any person who submits a charge to the director;

“day” does not include a Saturday, Sunday or public holiday;

“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;

“document” includes any recorded information, regardless of the form or medium;

“employer of in-house security officers” means a person who is not a security service provider and who uses his or her own employees to protect or safeguard merely his or her own property or other interests, or persons or property on his or her premises or under his or her control;

“enquiry”, in relation to a security service provider, means an enquiry as the result of a charge in terms of these regulations, and includes any proceedings in terms of regulations 16 or 17;

“head of finance and administration” means the staff member of the Authority appointed as the head of its finance and administration division and includes a staff member appointed as

the acting head of finance and administration;

“improper conduct” means improper conduct as defined in the Code of Conduct;

“party”, in relation to an enquiry, means the prosecutor or the respondent;

“presiding officer” means a person appointed in terms of regulation 2(1);

“prosecutor” means a person appointed in terms of regulation 2(5);

“repealed regulations” means the regulations repealed in terms of regulation 24;

“respondent” means a security service provider in connection with whom an enquiry is held, including a director of a company, a member of a close corporation, a partner of a partnership, a trustee of a business trust, an administrator or person in control of a foundation, and a person who performs executive or management functions in respect of any security business, as the case may be, in connection with which an enquiry is held, representing the company, close corporation, partnership, business trust, foundation or other security business, and any other person who has been substituted for any such representative in terms of regulation 5;

“security business” also includes an employer of in-house security officers;

“security service provider” also includes an employer of in-house security officers;

“these regulations” means the regulations contained in this Schedule.

Appointment, designation, functions and dismissal of presiding officers and of prosecutors

2. (1) The director may, with the concurrence of the Council, from time to time appoint, on such terms and conditions as the Council may approve, persons who are not in the employ of the Authority and who are suitably qualified, experienced and independent to preside over enquiries into charges of improper conduct against security service providers, and to perform any other function provided for in these regulations, and may terminate any such appointment.
- (2) The director may designate a presiding officer appointed in terms of sub-regulation (1) to enquire into a charge or any category of charges.
- (3) The functions and powers of a presiding officer are as provided for in the Act and in these regulations.
- (4) A presiding officer may administer an oath or affirmation to a witness at any enquiry.
- (5) The director may from time to time appoint, on such terms and conditions as he or she may determine, suitably qualified and experienced persons as prosecutors to perform the functions of a prosecutor in terms of these regulations, and may terminate any such appointment.

(6) A prosecutor performs his or her functions subject to these regulations and under the authority and control of the director.

(7) A document purporting to be signed by the director and which states that a person mentioned therein has been appointed or designated as a presiding officer or as a prosecutor, as the case may be, constitutes *prima facie* proof of such an appointment and designation in any proceedings where the document is submitted.

Submission of charge, citation of respondent and notification to respondent

3. (1) A person who intends to submit a charge with reference to a security service provider must deliver the charge to the director by means of an affidavit essentially containing the particulars contemplated in sub-regulation (2).

(2) An affidavit referred to in sub-regulation (1) must contain the following particulars insofar as they are within the knowledge of the complainant -

(a) the full name, employment or business address and residential address of the complainant and of the respondent and, where the complaint is directed against a company, close corporation, partnership, business trust, foundation or other security business, the name, employment or business address and residential address of a director of the company, a member of the close corporation, a partner of the partnership, a trustee of the business trust, an administrator or person in control of the foundation, or a person performing executive or managing functions in respect of such a security business, who may be cited as representative of the respondent; and

(b) such particulars of the alleged improper conduct of which the respondent is said to be guilty, including particulars as to the date and place of the alleged improper conduct, as may be reasonably necessary to inform the respondent of the nature of the charge.

(3) The director may take the steps that he or she deems necessary in the circumstances to establish whether there is *prima facie* evidence to support a charge that has been submitted to him or her in terms of sub-regulation (1).

(4) If the director is satisfied that the requirements contemplated in sub-regulations (2) and (3) have been met, he or she may direct a prosecutor in writing to -

(a) cause a copy of the charge as contained in a charge sheet, as well as all the other notices and documentation contemplated in this sub-regulation, to be served on the respondent;

(b) notify the respondent in writing that the Authority intends to institute an enquiry as a result of the charge as contained in the charge sheet;

(c) request the respondent in writing to give written notice to the director within the period stated in the request of whether the respondent intends to plead guilty or not guilty to the charge as contained in the charge sheet;

- (d) notify the respondent in writing that if the respondent intends to plead not guilty to the charge, the respondent may make substantiated submissions to the director within the stated period, indicating the basis of the defence in such a manner and with such detail that it will enable the director to make a decision on whether the enquiry should be instituted, instituted in respect of certain charges only, or which may shorten the proceedings at an enquiry;
 - (e) notify the respondent in writing that if the respondent intends to plead guilty to the charge, the respondent must submit an affidavit to that effect within the stated period to the director and may also submit substantiated representations in connection with the imposition of an appropriate penalty;
 - (f) notify the respondent in writing that the affidavit contemplated in paragraph (e), submitted on behalf of a respondent which is a security business, must be accompanied by a certified resolution or other adequate proof that the person acting on behalf of the respondent is authorised to plead guilty and submit representations in connection with the imposition of a penalty;
 - (g) inform the respondent in writing of the respondent's rights as contemplated in sub-regulation (6);
 - (h) request the respondent in writing to give written notice to the director within the period mentioned in the request of whether the respondent intends to be present at the enquiry or not, and whether the respondent will be represented by a legal practitioner or assisted by a person appointed by him or her; and
 - (i) notify the respondent in writing of the possible penalties provided for in the Code of Conduct if the respondent is found guilty of improper conduct.
- (5) A direction to a prosecutor in terms of these regulations may be executed by any other prosecutor.
- (6) A respondent has, subject to these regulations, the following rights in regard to an enquiry –
- (a) to be present at the enquiry or any part thereof;
 - (b) not to be present at the enquiry or any part thereof;
 - (c) to be represented by a legal practitioner or assisted by a person appointed by him or her;
 - (d) to call a witness and to give or submit evidence;
 - (e) to be heard;
 - (f) to cross-examine any person called as a witness in support of the charge;
 - (g) to dispute any evidence submitted in support of the charge;
 - (h) to inspect any document or object produced as evidence; and
 - (i) to exercise any other right provided for in these regulations.

(7) A legal practitioner who represents a respondent at an enquiry or part thereof while the respondent is absent, must submit proof to the satisfaction of the presiding officer that he or she has been duly authorised to represent the respondent.

Conviction on plea of guilty without enquiry

4. (1) Where an affidavit referred to in regulation 3(4)(e) is submitted to the director, the director may -
- (a) if it appears from the affidavit that the respondent intends to plead guilty to the charge, find the respondent guilty of the charge in question; or
 - (b) if there is a sound reason therefor –
 - (i) require supplementary relevant information from the respondent or any other person in order to again consider the matter in terms of paragraph (a); or
 - (ii) issue a summons in terms of regulation 7(1).
- (2) The director may, after convicting a respondent contemplated in sub-regulation (1)(a) of improper conduct, and with due regard to the representations (if any) submitted by the respondent, as well as the applicable considerations contemplated in the Code of Conduct, impose a penalty on the respondent provided for in the Code of Conduct.
- (3) The director may make any appropriate order provided for in these regulations in regard to the respondent.
- (4) The respondent must be informed through a written notice signed by the director and served on him or her, of every decision of the director in terms of this regulation.

Substitution of representative of respondent

5. (1) If a representative as referred to in regulation 3(2)(a) at any time ceases to be a director of the company, a member of the close corporation, a partner of the partnership, a trustee of the business trust, an administrator or person in control of the foundation, or a person performing executive or management functions in regard to the security business, or is not able due to circumstances beyond his or her control to further act as a representative in the aforesaid capacity, or if there is another sound reason to replace the representative, the director may on application by the representative, any other interested person or the prosecutor, substitute any other person who may in terms of the definition of "respondent" in regulation 1 act as representative, for such representative, whereupon the proceedings will continue as if no substitution has taken place.
- (2) If no other person is available to substitute a representative as contemplated in sub-regulation (1), the proceedings may continue in the absence of the respondent.

(3) The citing of a person to represent a security service provider or the substitution of a representative in terms of these regulations, will not relieve such representative from personal liability as a security service provider in respect of improper conduct.

Necessary particulars or necessary further particulars of charge

6. (1) A respondent may at any reasonable time before the commencement of an enquiry, but not less than 5 days before the commencement, request the prosecutor in writing to furnish relevant particulars or further particulars of any aspect of the charge as contained in the charge sheet served on the respondent, that are reasonably necessary to enable the respondent to prepare for the enquiry.
- (2) The particulars must be served on the respondent as soon as it is reasonably possible and will form part of the record of the proceedings.
- (3) The presiding officer before whom an enquiry into a charge is pending may, at any time before evidence in respect of that charge has been led, direct that necessary particulars or further particulars duly requested in terms of sub-regulation (1) be delivered to the respondent if the respondent is entitled to the particulars and if they have not been delivered before, and may, if necessary, adjourn the proceedings in order that such particulars may be delivered.

Summons to respondent to attend enquiry

7. (1) The director may cause a respondent who has given notice to the director that the respondent intends to plead not guilty to the charge in question, or from whom the director has received no reply to the relevant documentation contemplated in regulation 3(4) within the relevant period, where the director is satisfied that the documentation has been properly served, to be summoned under the signature of the director to appear at an enquiry, at a date, time and place referred to in the summons, and to produce at the enquiry any document so referred to which may be relevant to the enquiry, and which is, or presumably is, in possession of the respondent.
- (2) A summons referred to in sub-regulation (1) is in the form that the director determines from time to time.
- (3) The date for the enquiry contemplated in sub-regulation (1) may not be less than 10 days from the date of the serving of the summons, unless the respondent agrees to an earlier date.

Witnesses and related matters

8. (1) The director may, under his or her signature, summon any person to appear at an enquiry, at a date, time and place referred to in the summons, to give evidence and to produce at the enquiry any document referred to in the summons, which may be relevant to the enquiry and which is, or presumably is, in the possession of the person in question.
- (2) A summons referred to in sub-regulation (1) is in the form that the director determines from time to time.

(3) A respondent who wishes a person to be summoned to present evidence at an enquiry must, with the written permission of a presiding officer, draft, sign and serve a summons, accompanied by the written permission in question, substantially in the form that the director determines from time to time, on such person.

(4) The presiding officer may –

(a) direct any person present at an enquiry who, in the opinion of the presiding officer, may be able to give evidence relevant to the enquiry, to give such evidence and to produce any document which may be relevant to the enquiry, and which is or presumably is, in the possession of such person; and

(b) issue a summons in the form contemplated in sub-regulation (2) in respect of a person who is not present at an enquiry and who, in the opinion of the presiding officer, may be able to give evidence relevant to the enquiry, to attend the enquiry, give evidence at the enquiry, and to produce any document which may be relevant to the enquiry which is, or presumably is, in the possession of such person, at the enquiry.

(5) A directive of the presiding officer as referred to in sub-regulation (4)(a), has for all the purposes of these regulations the effect of a summons contemplated in sub-regulation (4)(b).

(6) The presiding officer may at the adjournment of an enquiry direct any person attending the enquiry as a witness and who has to be present when the enquiry resumes, to be present at the enquiry at a date, time and place determined by the presiding officer, and such directive has for all the purposes of these regulations the effect of a summons contemplated in sub-regulation (4)(b).

(7) Subject to the provisions of these regulations and the Code of Conduct, evidence by witnesses at an enquiry must be given orally under oath or affirmation, administered by the presiding officer.

Absence of respondent

9. (1) The presiding officer may, at the request of the prosecutor, determine that an enquiry or any part thereof may commence, be conducted or be continued in the absence of a respondent if the respondent was properly summoned to appear at the enquiry, and -

(a) the respondent is represented by a legal practitioner who is duly authorised thereto by the respondent;

(b) it is reasonable to assume from the information submitted to the presiding officer, or from the known circumstances, that the respondent is exercising, or is probably exercising, his or her right as contemplated in regulation 3(6)(b) not to be present at the enquiry or any part thereof; or

(c) it is reasonable and fair in the circumstances, on the basis of information submitted to the presiding officer, to commence, conduct or continue with the enquiry in the absence of the respondent.

(2) The presiding officer may at any time if the interests of justice so require, direct that an enquiry which has commenced, has been conducted or has continued in the absence of the respondent, be adjourned in order to give the respondent a reasonable opportunity to be present at the enquiry.

Tendering of plea and related procedures

10. (1) At the commencement of an enquiry the prosecutor must put the charge to the respondent and request the respondent to plead to the charge.

(2)(a) If the respondent pleads guilty and the presiding officer is satisfied that the respondent is, in accordance with the plea, guilty of the charge, the presiding officer must find the respondent guilty.

(b) No plea of guilty referred to in paragraph (a) may be accepted by the presiding officer from a representative of a security business unless the representative submits to the presiding officer a certified resolution or other adequate proof of the authorisation of the representative to plead guilty.

(c) A respondent may at any stage of the proceedings alter a plea of not guilty to a plea of guilty, whereupon paragraph (a) will apply.

(3) If the respondent tenders any plea other than a plea of guilty, or refuses or fails to tender a plea, or if the proceedings commence in the absence of a respondent as contemplated in regulation 9 and the respondent has not indicated that he or she offers a plea of guilty, the presiding officer must record that the respondent has pleaded not guilty and the enquiry will proceed in accordance with these regulations.

(4)(a) Where a respondent tenders a plea of not guilty, or where the presiding officer records a plea of not guilty as contemplated in sub-regulation (3), the presiding officer may ask the respondent whether the respondent wishes to make a statement indicating the basis of the defence.

(b) Where the respondent does not make a statement contemplated in paragraph (a), or does so and it is not clear from the statement to what extent the respondent denies or admits the allegations in the charge sheet, the presiding officer may question the respondent in order to establish which allegations are in dispute.

(c) The presiding officer may in his or her discretion put any question to the respondent in order to clarify any matter raised under paragraph (a) or (b) and any admission by the respondent in terms of this sub-regulation will serve as *prima facie* proof of any matter covered by such admission.

Application of procedural law and rules of evidence

11. (1) An enquiry is conducted, subject to the Act, these regulations and regulation 30 of

the Code of Conduct, in accordance with the law of procedure and the rules of evidence, with the necessary changes, that apply to a criminal trial in a Magistrate's Court.

(2) A respondent may, after the prosecutor has closed his or her case, apply to the presiding officer to be acquitted of the charge, and the presiding officer must acquit the respondent if the presiding officer is of the opinion that the prosecutor has not tendered evidence on which a reasonable person might find the respondent guilty.

Record of proceedings

12. The Authority must cause a complete record of the proceedings of an enquiry to be kept by the mechanical or other means deemed fit by it.

Service and return of service

13. (1) Any document whatsoever that may be served in terms of these regulations, with the exception of a summons contemplated in regulation 8(3), must be served by a staff member of the Authority or by a person designated in writing by the director for this purpose.
- (2) An affidavit whereby a return of the service of any document in terms of these regulations is affirmed, will, for the purposes of these regulations, be *prima facie* proof of the serving of the document in accordance with the contents of the return.

Adjournment of enquiry and costs of adjournment

14. (1) The presiding officer may at any time after the commencement of the proceedings of an enquiry, on request of a party or on his or her own initiative, where a sound reason exists, direct that the enquiry be adjourned to a date, time and place mentioned in the directive.
- (2) The presiding officer may on good cause shown by a party, order the other party to pay the former party's wasted costs in respect of the items contemplated in regulation 16(4) or (5), as the case may be, as a result of the adjournment of the proceedings at any time and may, after considering any representations that the parties may submit, make an order as to the amount and manner of payment of such costs.
- (3) The presiding officer may direct that any application for costs to be awarded in terms of this regulation, must be dealt with in conjunction with an application contemplated in regulation 16(2).

Imposition of penalties, payment and collection of fines and other amounts

15. (1) After the conviction of a respondent of improper conduct in terms of any provision of these regulations, no penalty contemplated in the Code of Conduct may be imposed on the respondent, subject to regulation 9, before the respondent has been granted a fair opportunity to submit oral or written representations in connection therewith.
- (2)(a) Where a fine has been imposed on a respondent and, where necessary, has been

confirmed in terms of regulation 18, the fine is, subject to paragraph (b), due and payable to the Authority on demand, irrespective of the fact that the respondent has lodged an appeal as contemplated in section 30(1)(c) of the Act against the conviction or the fine in question.

(b) A respondent who has lodged an appeal is entitled to furnish an acceptable bank guarantee in respect of the payment of the fine pending the decision on the appeal.

(3) Where an appeal by a respondent contemplated in sub-regulation (2) who has paid a fine to the Authority is successful or partially successful, the Authority must refund the fine or part thereof, as the case may be, on demand by the respondent with interest for the relevant period calculated in accordance with the rate determined in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

(4) The provisions of sub-regulations (2) and (3) apply, with the necessary changes, to any cost order made by the presiding officer in favour of the Authority.

(5) In any legal proceedings instituted by the Authority to recover any fine or other amount due to the Authority in terms of these regulations, a certificate purporting to have been signed by the head of finance and administration, whose appointment and authority need not be proved, will on mere submission to the court constitute sufficient proof against the debtor mentioned in the certificate for the purposes of provisional sentence or summary judgment, and constitute *prima facie* proof against the debtor mentioned in the certificate for any other purposes, as the case may be, of the existence and amount of the debt, that it is liquidated and that it has not been paid to the Authority.

Cost orders in regard to enquiries

16. (1) The presiding officer may -

(a) order a respondent who has been found guilty of improper conduct to pay the Authority's costs as contemplated in this regulation if the respondent, a legal practitioner representing the respondent or a person assisting the respondent, acted in a frivolous or vexatious manner in the defence or in his or her conduct during the enquiry; or

(b) order the Authority to pay to a respondent who has been found not guilty of improper conduct at an enquiry, the costs of the respondent as contemplated in this regulation if any person acting on behalf of the Authority acted in a frivolous or vexatious manner in initiating or proceeding with the enquiry.

(2) A party seeking a cost order contemplated in this regulation, must apply to the presiding officer as soon as possible after the findings of the presiding officer have been made known and present the necessary evidence, information and submissions to enable the presiding officer to make an appropriate order.

(3) Costs contemplated in this regulation must be calculated on the appropriate tariffs and scales determined from time to time by the director, with the concurrence of the

Council, for this purpose.

(4) The Authority may be awarded costs only in respect of –

- (a) the professional services of the presiding officer;
- (b) the professional services of the prosecutor if the prosecutor is not in the fulltime employment of the Authority;
- (c) the costs of travel and accommodation in respect of the presiding officer, the prosecutor and any person who attended an enquiry at the request of the Authority and whose attendance at the enquiry was necessary; and
- (d) the costs of renting premises and facilities for the purposes of the enquiry.

(5) A respondent may be awarded costs only in respect of –

- (a) legal representation by a legal practitioner at the enquiry; and
- (b) the costs of the respondent and necessary witnesses of the respondent in regard to travel and accommodation, incurred in connection with attending the enquiry.

(6) The proceedings referred to in this regulation must be conducted in terms of such procedures and rules of evidence as the presiding officer may deem to be appropriate and fair in the circumstances and the presiding officer may only award costs to a party if that party has shown its entitlement thereto on a balance of probabilities.

(7) An application for costs to be paid by a respondent to the Authority may be considered and decided upon in the absence of the respondent in the circumstances contemplated in regulation 9, with the necessary changes.

(8)(a) After considering any evidence, information and submissions that the parties may present, the presiding officer may refuse to make an order or may make an order as to the amount and manner of payment of costs awarded to a party.

(b) In determining the amount of costs to be awarded to a respondent in relation to a witness contemplated in sub-regulation (5)(b), the presiding officer must subtract from such costs any fees and allowances that have been or will be paid to the witness in terms of regulation 20(1).

Suspended penalties

17. (1) If a respondent has been found guilty at an enquiry and the presiding officer finds that the respondent has not complied with a condition for the suspension of a previous penalty as contemplated in the Code of Conduct or in the repealed regulations, the presiding officer may, after the respondent has been granted a fair opportunity to submit oral or written representations -

- (a) put the suspended penalty or any part of the suspended penalty into operation; or

- (b) further suspend the suspended penalty or any part of the suspended penalty on appropriate conditions.
- (2)(a) If the director has reason to believe that a security service provider has not complied with a condition for the suspension of a previous penalty as contemplated in the Code of Conduct or in the repealed regulations, the director may direct a prosecutor in writing to -
- (i) cause a document with sufficient particulars of the alleged non-compliance with a condition for suspension of the penalty to be served on the security service provider;
 - (ii) notify the security service provider that the director intends to apply for the suspended penalty to be put into effect; and
 - (iii) request the security service provider to give written notice to the director within the period stated in the notice whether the security service provider intends to oppose the director's application or not and to submit, in the form of an affidavit, any evidence and representations that the security service provider wishes to submit.
- (b) The director may, through written notice served on the security service provider concerned, put into effect a suspended penalty or part thereof of a security service provider who has indicated to the director in terms of paragraph (a) that the security service provider does not intend to oppose the application of the director.
- (c) Where a security service provider has given notice to the director that the security service provider intends to oppose the application for putting into operation a suspended penalty, or from whom the director has received no reply within the relevant period, the director may -
- (i) refer the matter to a presiding officer to consider and rule on the director's application; and
 - (ii) cause the security service provider to be summoned, for the purposes of considering and deciding on the director's application, under the signature of the director by means of a summons in the form determined by the director from time to time.
- (d) Subject to these regulations, the proceedings referred to in paragraph (c) must be conducted in terms of such procedures and rules of evidence as the presiding officer may deem to be appropriate and fair in the circumstances.
- (e) A request for the putting into operation of a suspended penalty contemplated in paragraph (c) may be considered in the absence of a respondent in the circumstances contemplated in regulation 9, with the necessary changes.

(f) If the presiding officer, after considering all the evidence available to him or her, finds that a security service provider, on a balance of probabilities, has not complied with a condition for the suspension of a previous penalty, the presiding officer must –

(i) put the suspended penalty or any part of the suspended penalty into operation; or

(ii) further suspend the suspended penalty or any part of the suspended penalty on appropriate conditions.

Confirmation, review and substitution of findings, penalties and other orders

18. (1) After the conclusion of an enquiry, the presiding officer must submit the record of the proceedings to the director, whereupon the director may -

(a) where the respondent has been found guilty, confirm the conviction or set it aside;

(b) where the conviction is so confirmed, confirm the penalty imposed, or replace it with any lesser penalty contemplated in the Code of Conduct;

(c) where the conviction is so confirmed, replace the penalty imposed with any other appropriate penalty contemplated in the Code of Conduct, after the applicable rules of administrative justice have been complied with;

(d) confirm or set aside any order relating to costs or any other order made by the presiding officer; and

(e) give any other order which is fair and just in the circumstances.

(2) The respondent must be informed through a written notice signed by the director and served on the respondent, of the decision of the director in terms of sub-regulation (1).

(3) The provisions of this regulation apply, with the necessary changes, to a decision contemplated in regulations 17(1) and 17(2)(f).

(4) The provisions of sub-regulation (1) are not applicable to the proceedings or decisions contemplated in regulations 4 and 17(2)(b).

Penal provisions

19. (1) No person may -

(a) wilfully hinder or impede the presiding officer or any other person, at any stage of the proceedings in connection with an enquiry, in the exercise of his or her powers or the carrying out of his or her functions or duties in terms of a provision of these regulations;

- (b) threaten or insult the presiding officer or prosecutor in connection with an enquiry;
- (c) wilfully furnish information or submit evidence at an enquiry which is false in any material respect;
- (d) wilfully refuse or fail to act in terms of any lawful instruction or directive of the presiding officer in connection with an enquiry;
- (e) subject to regulation 3(6)(b), after a summons has been served on him or her in terms of a provision of these regulations, without good cause refuse or fail to comply with the provisions of the summons;
- (f) after he or she has in terms of these regulations been summoned to give evidence at an enquiry, refuse to be sworn in as a witness or to make an affirmation, to produce a document or, after he or she has been put under oath or affirmation, refuse to answer a lawful question put to him or her;
or
- (g) fail to pay a fine imposed in respect of improper conduct or to make any other payment as directed by the presiding officer in terms of these regulations, when the fine or other amount is due and payable by such person.

(2) Any person who contravenes a provision of sub-regulation (1) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 24 months, or to both the fine and the imprisonment.

Witness fees

20. (1) Subject to sub-regulation (2), the director may out of the funds of the Authority pay to any person who attended an enquiry as a witness such fees and allowances as may from time to time be determined by the director with the concurrence of the Council.
- (2) The director may not pay any person any such fee or allowance, unless the presiding officer has certified that the person concerned has conducted himself or herself properly and satisfactorily as a witness or that, where the person was not called upon to actually give evidence, he or she at all relevant times held himself or herself available for that purpose or, where his or her inability to give evidence was due to circumstances beyond his or her control, that such circumstances prevented him or her from giving evidence.
- (3) Different fees or allowances in respect of different classes of witnesses or different circumstances or classes of enquiries may be determined under sub-regulation (1).

Delegation

21. (1) The director may, with the approval of the Council and upon such conditions as

the Council may determine, in a written notice which contains sufficient particulars of the matters being delegated and of any conditions attached thereto, delegate any of the powers conferred upon the director by these regulations to a staff member of the Authority.

(2) The director may at any time amend or revoke a delegation in terms of sub-regulation (1), or withdraw any decision made by the delegatee with regard to a delegated matter and decide the matter himself or herself, unless the decision by the delegatee has conferred a right on a third party.

Transitional provisions

22. (1) Any charge with reference to a security service provider already submitted to the Authority or the director at the date of the commencement of these regulations, must be dealt with in terms of these regulations.

(2) Any enquiry pending at the date of the commencement of these regulations must continue in terms of these regulations unless the presiding officer for a sound reason directs that the enquiry, or any part thereof, must continue in terms of the repealed regulations.

(3) Any person appointed or designated as a presiding officer or as a prosecutor, as the case may be, in terms of the repealed regulations, is deemed to have been appointed or designated in terms of regulation 2.

Attendance of persons at enquiry proceedings

23. Unless the presiding officer for a sound reason determines otherwise, only a person who performs a function at an enquiry in terms of the Act or these regulations or who is in the employ of the Authority, is allowed to be present at such enquiry.

Repeal of regulations

24. The Improper Conduct Enquiries Regulations, 2001 are hereby repealed.

Authoritative text

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

Short title and date of commencement

26. These regulations are called the Improper Conduct Enquiries Regulations, 2003 and come into operation on 1 March 2003.