

STATE PRESIDENT'S OFFICE

No. 1907.
10 July 1992

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:

NO. 119 OF 1992: SECURITY OFFICERS AMENDMENT ACT, 1992

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Security Officers Act, 1987, so as to provide for defining by notice in the Gazette certain services as security services for the purposes of that Act; to further regulate the functions of the Security Officers' Board and its constitution and that of the executive committee; to provide further for the registration of, and the payment of annual amounts by, security officers; to make new provision for enquiries into alleged improper conduct by security officers; to provide for the establishment of a Security Officers' Appeal Board; to empower the said Security Officers' Board to make regulations; to regulate certain powers of the South African Police; to curtail the power of delegation of the Minister of Law and Order; and to abolish the fidelity guarantee fund for security officers; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 2 July 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows: -

Amendment of section 1 of Act 92 of 1987

1. Section 1 of the Security Officers Act, 1987 (hereinafter referred to as the principal Act), is hereby amended-

- (a) by the deletion of the definition of "guarantee fund";
- (b) by the substitution in the definition of "security service" for the words preceding paragraph (a) of the following words:

"'security service' means, subject to subsection (2), a service rendered by a person to another person for reward by-", and

- (c) by the addition of the following subsection, the existing section becoming subsection (1):

"(2) (a) The Minister may, on the recommendation of the Board by notice in the Gazette-

- (i) define for the purposes of this Act any service other than a service contemplated in the definition of 'security service' in subsection (1) which a person renders to another person for reward, and which in the opinion of the Minister is in the interest of the occupation of security officer in

the Republic or is connected therewith, as a security service; and

(ii) determine that the provisions of this Act mentioned in the notice shall not apply to any person rendering any security service so defined.

(b) The Minister may likewise amend or withdraw any notice contemplated in paragraph (a).".

Amendment of section 3 of Act 92 of 1987, as amended by section 1 of Act 25 of 1990

2. Section 3 of the principal Act is hereby amended-

(a) by the substitution for paragraph (c) of the following paragraph:

"(c) give advice take such steps as it may deem expedient or necessary in connection with the training of security officers, the giving of advice in connection with such training, the determination of the standards of such training, and the promotion of the maintenance of those standards and promote the standard of training of security officers;"; and

(b) by the substitution for paragraph (hA) of the following paragraph:

"(hA) with the approval of the Minister and the Minister of Finance determine the remuneration payable from the funds of the Board to members of the Board referred to in section 4(1)(a) and (d) and members of committees referred to in paragraph (hB) who are not officers or employees in the public service;".

Amendment of section 4 of Act 92 of 1987

3. (1) Section 4 of the principal Act is hereby amended-

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

"(a) six security officers selected by the Minister from among the persons whose names appear on a list compiled in terms of subsection (4), of whom three shall be representative of employers and three representative of employees;";

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

"(b) a commissioned officer of the South African Police designated by the Commissioner two persons who shall be consumers of security services;";

(c) by the deletion in the said subsection (1) of paragraph (c); and

(d) by the substitution for subsection (4) of the following subsection:

"(4) (a) As often as it may become necessary the Commissioner Minister shall by notice in the Gazette and, if he finds it necessary, also in such other manner as he may determine, invite persons rendering security services and associations or organizations of security officers to submit to him (directly or through any federation of such associations or organizations) within a specified period names of persons who have pursued the occupation of security officer for at least seven five years and

who are competent and fit and proper to be appointed as members of the Board contemplated in subsection (1)(a).

(b) Upon the expiry of the period specified in terms of paragraph (a) the Commissioner Minister shall compile cause to be compiled a list of twelve the names of persons selected from persons whose names were submitted to him in pursuance of the relevant invitation and who in his opinion are competent and willing, and are fit and proper persons, to be appointed as members of the Board and who in the opinion of the Commissioner Minister are as far as possible representative of employers and employees who are security officers in the Republic: Provided that the Commissioner Minister may compile such a list at his own discretion if-

- (i) no names are submitted to him in pursuance of such an invitation, or
- (ii) an insufficient number of names of competent and fit and proper persons are submitted to him."

(2) Any person who at the commencement of this section is a member of the Security Officers' Board established by section 2 of the principal Act, shall continue to hold office until that Board is constituted at the commencement of this section.

Amendment of section 5 of Act 92 of 1987, as amended by section 2 of Act 25 of 1990

4. Section 5 of the principal Act is hereby amended-

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

"(1) A member of the Board-

- (a) referred to in paragraph (a) or (d) of section 4(1) shall be appointed for such period, not exceeding three years, as the Minister may determine at the time of the appointment;
- (b) referred to in paragraph (b) or (c) of that section shall be appointed at the Minister's pleasure."; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) A member of the Board referred to in section 4(1)(a) or (d) or a member of a committee referred to in section 3(hB) who is not an officer or employee in the public service, may be paid from the funds of the Board such allowances for the defrayal of transport and subsistence costs as the Board may with the approval of the Minister and the Minister of Finance determine."

Amendment of section 6 of Act 92 of 1957

5. Section 6 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

"(a) If a member of the Board ceases to hold office the Minister shall, having regard to the provisions of paragraph (a), (b), (c) or (d) of 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: Provided that a person appointed in the place of a former member-

- (i) referred to in paragraph (a) or (d) of the said section, shall be appointed for the unexpired portion of such former member's term of office;
- (ii) referred to in paragraph (b) or (c) of the said section, shall be appointed at the Minister's pleasure. "

Amendment of section 9 of Act 92 of 1957

6. Section 9 of the principal Act is hereby amended by the addition of the following proviso to subsection (1):

"Provided that the members of the executive committee shall as far as possible be so appointed in order that the different interest groups which are represented on the Board shall also obtain representation on the executive committee. "

Amendment of section 10 of Act 92 of 1987

7. Section 10 of the principal Act is hereby amended by the substitution in subsection (5) for paragraph (b) of the following paragraph:

"(b) direct that any or all of the provisions of this Act shall apply to or with respect to any employee or any employee belonging to a specified category of employees who renders service to an employer for the safeguarding or protection of the employer's property, or of people persons or property on the employer's premises or under the employer's control, or to or with respect to any employee or any employee belonging to a specified category of employees who renders service for the protection or safeguarding of any other person or property in accordance with an arrangement concluded by his employer with such other person, whereupon such employee shall, for the purposes of such provisions, be deemed to be a security officer. "

Amendment of section 11 of Act 92 of 1987

8. Section 11 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) a clear and complete set of fingerprints, taken in the prescribed manner, of the applicant if the applicant is a natural person or of each director if the applicant is a company or of each member if the applicant is a close corporation; and"

Substitution of section 12 of Act 92 of 1987

9. The following section is hereby substituted for section 12 of the principal Act:

"Requirements for registration

12. (1) Any natural person applying for registration in terms of section 11(1), may be registered as a security officer if he-

- (a) is 18 years of age or older;
- (b) was not at any time, whether before or after the commencement of

this Act, found guilty of an offence specified in the Schedule;

- (c) has not been declared by a competent court to be of unsound mind; and
- (d) has not at any time been found guilty under section 20 of improper conduct.

(2) A company or close corporation applying for the said registration may be so registered if every director of the company or every member of the close corporation complies with the requirements of paragraphs (a), (b) (c) and (d) of subsection (1).

(3) Notwithstanding the provisions of subsections (1) and (2), the Board may on grounds not prejudicing in its opinion the objects of this Act, in any particular case effect registration as security officer.

Amendment of section 16 of Act 92 of 1987

10. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Board may by way of application on notice of motion apply to a court for an order withdrawing the registration of a security officer if there are grounds, other than those mentioned in section 15 or 18(2) or 25(2), justifying the withdrawal of the registration concerned."

Substitution of section 17 of Act 92 of 1987

11. The following section is hereby substituted for section 17 of the principal Act:

"Certificates of registration to be returned on withdrawal of registration

17. Whenever the registration of a security officer is withdrawn under section 15, 16 or 18(2) 25(2) the security officer shall forthwith return to the Board the certificate of registration issued to him under section 14."

Amendment of section 18 of Act 92 of 1987

12. Section 18 of the principal Act is hereby amended-

- (a) by the substitution for subsection (1) of the following subsection:

"(1) Every person registered as a security officer shall annually on or before a prescribed date pay to the Board the prescribed amount. Provided that with effect from 1 January 1994 the said amount shall be paid before or on 1 April of the year concerned and of every subsequent year."; and

- (b) by the addition of the following subsection:

"(4) (a) A person in whose service a security officer is, shall, unless the security officer in writing requests that no amounts be deducted from his remuneration, with effect from 1 April 1993 deduct monthly an amount equal to one-twelfth of the prescribed amount

mentioned in subsection (1) from the remuneration due to the security officer, and shall forthwith pay it over to the Board, which shall accept the amounts so paid over as pre-payment in respect of the amount mentioned in subsection (1) which will be due by the security officer.

(b) The Board shall, if and when the registration of a security officer on behalf of whom amounts have been paid in accordance with paragraph (a) to the Board, is withdrawn in terms of this Act, or otherwise lapses, without delay refund to the security officer the total of all amounts so received by it.

(c) A person mentioned in paragraph (a) who-

- (i) contrary to a written request contemplated in that paragraph by the security officer in his service deducts amounts from the remuneration of the security officer to pay over to the Board; or
- (ii) does not pay over to the Board any amount contemplated in paragraph (a) which has been deducted from remuneration, within 21 days thereafter, shall be guilty of an offence and on conviction liable to a fine not exceeding R3 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(d) The provisions of subsection (2) shall not apply to a security officer contemplated in that subsection in respect of whom pre paid amounts have been received by the Board, unless it is proved to the satisfaction of the Board that the pre-payment of the relevant amounts has on the written request by the security officer been terminated by the person in whose service he is, or the Board has not received the total of due amounts before or on 22 April of any specific year."

Amendment of section 20 of Act 92 of 1987

13. Section 20 of the principal Act is hereby amended-

- (a) by the substitution in subsection (2) for the words preceding the proviso of the following words:

"The Board may in the prescribed manner enquire into cause an allegation of improper conduct by a security officer which has been submitted to it in the prescribed manner or cause such allegation to be enquired into in the prescribed manner by a committee of members of the Board or by a person or persons designated by (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"If the Board, or the committee or person or persons conducting the enquiry find the security officer guilty of improper conduct, the Board person or persons may, subject to subsection (5)-"; and

- (c) by the substitution for subsection (5) of the following subsection:

"(5) The Board shall not take any action under subsection (3) in respect of an enquiry conducted by a committee or a person or persons designated by it unless it associates itself with the finding of the committee, person or persons. The person or persons conducting any such enquiry shall forthwith after its

conclusion submit the record of the proceedings to the Board, whereupon the Board-

- (a) may, where the security officer concerned has been found guilty, confirm the conviction, or set it aside;
- (b) may, where the conviction is so confirmed, confirm the punishment imposed or replace it with any other punishment contemplated in subsection (3) or, where a punishment contemplated in paragraph (b) of the said subsection (3) has been imposed, reduce the punishment; and
- (c) shall inform the security officer concerned in writing of the final decision."

Substitution of section 21 of Act 92 of 1987

14. The following section is hereby substituted for section 21 of the principal Act:

"Appeal Board

21. (1) There is hereby established a board to be known as the Security Officers' Appeal Board.

(2) The Appeal Board shall consist of a chairman appointed by the Minister, and two other persons who shall in the case of every specific appeal be nominated in the prescribed manner by the Board and the appellant concerned, respectively.

(3) No person shall be appointed as chairman of the Appeal Board under subsection (2), unless he is an advocate or attorney of not less than 10 years' standing.

(4) Any person aggrieved by-

- (a) the refusal of the Board to grant his application for registration as a security officer;
- (b) the suspension or withdrawal by the Board of his registration as a security officer; or
- (c) his conviction under section 20 on a charge of improper conduct or the imposition of a fine or a reprimand in consequence of his conviction,

may within 60 days after he has been notified of the decision referred to in paragraph (a), (b) or (c), as the case may be, lodge an appeal against the decision in the prescribed manner with the Appeal Board.

(5) Whenever an appeal has under subsection (4) been lodged with the Appeal Board, the Board shall within 14 days thereafter submit to the Appeal Board in writing its reasons for the decision against which the appeal is lodged as well as, in the case of a decision in pursuance of an enquiry under section 20, the record of the enquiry.

(6) The Appeal Board may after it has considered the grounds of the appeal, confirm, set aside or amend the relevant decision or substitute for such decision any other decision which in the opinion of the Appeal Board ought to have been taken.

(7) A decision of the Appeal Board shall be deemed to be a decision of the Board.

(8) The period and conditions of office of the chairman of the Appeal Board and the conditions of office of the other members of the Appeal Board, shall be as prescribed.

(9) The procedure to be followed in the prosecution of an appeal and at any sitting of the Appeal Board shall be as prescribed.

(10) The costs connected with the functions of the Appeal Board shall be defrayed by the Board from its funds."

Repeal of sections 22 to 28, inclusive, of Act 92 of 1987

15. Sections 22 to 28, inclusive, of the principal Act are hereby repealed.

Amendment of section 32 of Act 92 of 1987

16. (1) Section 32 of the principal Act is hereby amended-

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

"The Minister Board may after consultation with the concurrence of the Board Minister make regulations-";

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

"(b) prescribing the persons by whom the amounts and contributions referred to in sections section 18(1) and 25(1), respectively shall be collected on behalf of the Board, as well as the manner in and time within which they shall be so collected and paid over to the Board;";

(c) by the substitution in the said subsection (1) for paragraph (c) of the following paragraph:

"(c) prescribing the conditions under which a security officer shall not be bound to pay an amount or a contribution referred to in sections section 18(1) and 25(1), respectively;";

(d) by the substitution in the said subsection (1) for paragraph (d) of the following paragraph:

"(d) as to the training of obligatory undergoing by security officers of the training mentioned in section 3(c);";

(e) by the insertion after paragraph (e) of the said subsection (1) of the following paragraph:

"(eA) regarding the designation of persons mentioned in section 3(d) as inspectors, and their duties and powers;"; and

(f) by the addition of the following subsection:

"(4) Before any regulations are made under subsection (1), a draft of the proposed regulations shall be published by the Board in the Gazette together with a notice intimating that the Board intends to issue such regulations as regulations under subsection (1) and inviting interested persons to submit to the Board within a stated period, but not less than four weeks as from the date of publication of the notice, any objections to or representations concerning the proposed regulations: Provided that if the Board after the expiry of the said period decides on any alterations of the proposed regulations so published, as a result of any objections or representations submitted thereon, it shall not be necessary to publish such alterations."

(2) Any regulation made by the Minister of Law and Order under section 32 of the principal Act prior to the commencement of this section, shall be deemed to have been made by the Security Officers' Board established by section 2 of the principal Act, under section 32 of that Act as amended by this section.

Amendment of section 33 of Act 92 of 1987

17. Section 33 of the principal Act is hereby amended by the deletion of subsections (1), (2) and (3).

Amendment of section 35 of Act 92 of 1987

18. Section 35 of the principal Act is hereby amended-

- (a) by the deletion of paragraphs (d) and (e); and
- (b) by the substitution for the words following upon paragraph (c) of the following words:

"shall be guilty of an offence and on conviction liable to a fine not exceeding R1 000 R3 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment. "

Amendment of section 36 of Act 92 of 1987

19. Section 36 of the principal Act is hereby amended-

- (a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister may upon such conditions as he deems fit delegate any or all of the powers conferred upon him by this Act, save the a power to make regulations mentioned in sections 1(2), 4, 5, 6, 10(5)(b), 32 and 34(b), to the Commissioner or a commissioned officer of the South African Police designated by the Commissioner."; and

- (b) by the insertion of the following subsection after subsection (1):

"(1A) The Minister may, upon such conditions as he deems fit,

section 34(b) to the Board.

Substitution of Schedule to Act 92 of 1987

20. The following Schedule is hereby substituted for the Schedule to the principal Act:

"Schedule

Treason.

Sedition

Murder.

Culpable homicide involving an assault.

Kidnapping.

Childstealing.

Rape.

Indecent assault.

Sodomy.

Bestiality.

Robbery.

Assault with the intent to do grievous bodily harm.

Arson.

Housebreaking, with intent to commit an offence.

Theft.

Receiving stolen property knowing it to have been stolen.

Fraud.

Forgery or uttering a forged document knowing it to have been forged.

Offences relating to the coinage.

An offence in terms of the Internal Security Act, 1982.

An offence in terms of the Protection of Information Act, 1982 (Act No. 84 of 1982).

Any offence under any law relating to illicit dealing in or possession of precious metals or precious stones.

Any conspiracy, incitement or attempt to commit any offence mentioned in this Schedule."

Short title and commencement

21. (1) This Act shall be called the Security Officers Amendment Act, 1992 and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.