

DEPARTMENT OF TRADE AND INDUSTRY

NO. R. 791

01 JULY 2016

PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY

[DATE]

PRIVATE SECURITY INDUSTRY REGULATION ACT NO. 56 OF 2001

AMENDMENT TO THE CODE OF CONDUCT MADE UNDER THE PRIVATE SECURITY INDUSTRY
REGULATION ACT, 2001 (ACT NO. 56 OF 2001)

NOTICE . . . OF 2016

I, Nkosinathi Phiwayinkosi Thamsanqa Nhleko, Minister of Police, acting under section 28(1) of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) and after consultation with the Council for the Private Security Industry Regulatory Authority, hereby make amendments to the Code of Conduct in the Schedule hereto.

SCHEDULE

AMENDMENT OF THE CODE OF CONDUCT UNDER THE PRIVATE SECURITY INDUSTRY
REGULATION ACT, 2001 (ACT 56 OF 2001)

Definitions

1. In this Schedule-
 - (a) "Authority" means the Private Security Industry Regulatory Authority established in terms of section 2(1) of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) and has the same meaning as the "Board" as defined in section 1 of the Security Officers Act, 1987 (Act 92 of 1987); and
 - (b) "the Code of Conduct" means the Code of Conduct for Security Service Providers, 2003 published under Government Notice No. 305 in *Government Gazette* 24971 of 28 February 2003.

Commencement

2. The amendments to the Code of Conduct contained in this Schedule will come into effect on [09 July 2016].

Substitution of regulation 5(1) of the Code of Conduct

3. The following regulation is hereby substituted for regulation 5(1) of the Code of Conduct:

"5. General obligation to act in terms of applicable law.—(1) A security service provider must comply with the provisions of the Act and with all other legal provisions and obligations, whether they are based on or form part of common law or statutory law, including but not limited to any directives, determinations, findings, orders or rulings issued by any competent authority including a court, tribunal, commission, regulator, forum or organ of state, that are applicable or relevant to—

- (a) practising the occupation of security service provider;
- (b) rendering a security service;
- (c) carrying on business in the rendering of a security service;
- (cA) employing security officers; and
- (d) performing any other act or function which is subject to the Act."

Substitution of regulation 25 of the Code of Conduct

4. The following regulation is hereby substituted for regulation 25 of the Code of Conduct:

"25. Penalties in respect of improper conduct by a security service provider.—(1) A security service provider who has been found guilty of improper conduct in terms of the procedures contemplated in regulation 29, is subject to the following penalties—

- (a) a warning or a reprimand;
- (b) suspension of registration as security service provider for a period not exceeding 12 months;
- (c) withdrawal of registration as security service provider;
- (cA) withdrawal as accredited training establishment
- (d) a fine not exceeding R1 000 000,00 which is payable to the Authority;
- (e) publication of appropriate details of the conviction of improper conduct and any penalty imposed;
- (f) endorsement against the register of security service providers, any certificate of registration or other documentation issued by the Authority, of the conviction of improper conduct and any penalty imposed; or

(g) any combination of the above.

(2) The penalty contemplated in sub-regulation (1) (b), (c), (cA) or (d) may be suspended on any condition that is reasonably likely to promote compliance with this Code by the security service provider.

(3) In addition to any other relevant fact, the following must be considered and properly taken into account in imposing any penalty contemplated in this regulation—

- (a) the gravity and nature of the improper conduct, including the duration or frequency of the improper conduct;
- (b) the known relevant circumstances of the security service provider including its annual or monthly income and its profitability, and such other relevant circumstances as the security service provider may prove to exist;
- (c) the national interest as well as the interest of the public and of the private security industry;
- (d) the risk posed by the improper conduct to the rights or legitimate interests of any person, and any other remedies available to any person affected by the improper conduct;
- (e) any previous conviction of the security service provider of improper conduct in terms of this Code or the repealed code of conduct;
- (f) the financial or other benefit or likely benefit obtained or that may be obtained by the security service provider through the commission of improper conduct; and
- (g) any actual or potential harm caused by the security service provider through the commission of improper conduct.

(4) In imposing a penalty contemplated in sub-regulation (1) (d) on a security service provider who has previously been convicted of improper conduct in terms of this Code or the repealed code of conduct, and subject to the monetary limit prescribed in sub-regulation (1) (d), the director or presiding officer as the case may be must set the fine at an amount which is at least equal to the aggregate of any fines imposed for such previous convictions, unless the security service provider can satisfy the presiding officer why it would be unjust or inequitable in the circumstances to do so."

Substitution of regulation 27 of the Code of Conduct

5. The following regulation is hereby substituted for regulation 27 of the Code of Conduct:

"27. Penalties in respect of improper conduct by an employer of in-house security officers.—(1) An employer of in-house security officers who has been found guilty of improper

conduct in terms of the procedures contemplated in regulation 29, is subject to the following penalties—

- (a) a warning or a reprimand;
- (aA) withdrawal as accredited training establishment
- (b) a fine not exceeding R1 000 000,00 which is payable to the Authority;
- (c) publication of appropriate details of the conviction of improper conduct and any penalty imposed; or
- (d) any combination of the above.

(2) The penalty contemplated in sub-regulation (1) (Aa), (b), (c) or (d) may be suspended on any condition that is reasonably likely to promote compliance with this Code by the employer of in-house security officers.

(3) In addition to any other relevant fact, the following must be considered and properly taken into account in imposing any penalty contemplated in this regulation—

- (a) the gravity and nature of the improper conduct, including the duration or frequency of the improper conduct;
- (b) the known relevant circumstances of the employer of in-house security officers including its annual or monthly income and its profitability, and such other relevant circumstances as the employer of in-house security officers may prove to exist;
- (c) the national interest as well as the interest of the public;
- (d) the risk posed by the improper conduct to the rights or legitimate interests of any person, and any other remedies available to any person affected by the improper conduct;
- (e) any previous conviction of the employer of in-house security officers of improper conduct in terms of this Code;
- (f) the financial or other benefit or likely benefit obtained or that may be obtained by the employer of in-house security officers through the commission of improper conduct; and
- (g) any actual or potential harm caused by the employer of in-house security officers through the commission of improper conduct.

(4) In imposing a penalty contemplated in sub-regulation (1) (b) on a security service provider who has previously been convicted of improper conduct in terms of this Code, and subject to the monetary limit prescribed in sub-regulation (1) (b), the director or presiding officer as the case may

be must set the fine at an amount which is at least equal to the aggregate of any fines imposed for such previous convictions, unless the security service provider can satisfy the presiding officer why it would be unjust or inequitable in the circumstances to do so."