

## DEPARTMENT OF POLICE

NO. 3580

23 June 2023

**THE ESTABLISHMENT AND OPERATION OF A COMPLAINTS OFFICE DRAFT REGULATIONS MADE UNDER THE PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO 56. OF 2001)**

The Minister of Police, under section 35 of the Private Security Industry Regulation Act, 2001 (Act No 56 of 2001) read with section 4(r) hereby intend to make regulations in the Schedule.

Any interested or affected persons are invited to submit written comments or representations on the proposed draft Regulations to the office of the Director: Private Security Industry Regulatory Complaints Office within four weeks from the date of publication of this notice in the Gazette at the following address:

**Postal address:**

The Director  
Private Security Industry Regulatory Authority  
Private Bag X 817  
**PRETORIA**  
0001

**Street address:**

420 Witch-Hazel Avenue  
Eco Glades 2 Office Park, Block B  
Highveld Ext 70  
Centurion

E-mail: [Howard.THWANE@psira.co.za](mailto:Howard.THWANE@psira.co.za)

**B.H CELE, MP**

**Minister of Police**

**Date:**

## **SCHEDULE**

### **Chapter 1: Definitions, Purpose, interpretation and Application**

1. Definitions and abbreviations
2. Purpose and interpretation
3. Application

### **Chapter 2:**

4. Persons who may lodge a Complaint
5. Procedure for submission of Complaints
6. Preliminary Assessment of Complaints
7. Referral of Complaints to a Competent Authority
8. Conciliation of Complaints
9. Settlement of Complaints
10. Investigation and the use of Expert Assistance
11. Informing parties of developments regarding investigation
12. Minor Breaches
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14. Complaints where security service provider has failed or declined to take rectification action
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17. Short title and commencement

**PREAMBLE**

**WHEREAS** the objects of the Private Security Industry Regulatory Authority are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and the interest of the private security industry itself, in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);

**AND WHEREAS** the Minister has prescribed a code of conduct that meets the requirements of section 28 of the Private Security Industry Regulations Act, 2001, and is legally binding on all security service providers, irrespective of whether they are registered with the Private Security Industry Regulatory Authority or not, as well as on certain other persons. The Authority has a responsibility to ensure that the code of conduct is complied with by ensuring that processes and procedures to receive, process, refer or deal with complaints regarding the conduct of security service providers are herein prescribed.

**AND WHEREAS** the Minister of Police deems it necessary to make regulations relating to any matter which in terms of the Act is required or permitted to be prescribed in or in connection with the rendering of security services.

Be it published, therefore, the draft regulations contained in this Schedule for comment by interested persons.

**CHAPTER 1****PURPOSE, INTERPRETATION, APPLICATION AND DEFINITIONS****Definitions and abbreviations**

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 indicates otherwise –

**“Act”** means the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);

**“Authority”** means the Private Security Industry Regulatory Authority established in terms of section 2 of the Act;

**“Competent Authority”** means any relevant statutory body having jurisdiction to investigate a complaint that does not fall within the jurisdiction of the Authority;

**“Complaint”** means any allegation of poor quality of security service rendered by a security service provider against a security service provider;

**“Complainant”** means any person who lodges a complaint with the Authority for investigation;

**“Complaints Committee”** means a committee established by the Director in terms of these regulations to adjudicate complaints and to make findings and/or recommendations for resolution of such complaints;

**“Quality of Service”** means a degree of skill, diligence and care as may be expected of a reasonable, competent and qualified security service provider;

**“Security Service Provider”** means a security service provider as defined in terms of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

### **Purpose and Interpretation**

2. (1) The purpose of these regulations is to -
- (a) establish a complaints office;
  - (b) promote and enhance access to the Complaints Office to -
    - (i) protect the interest of users of security services as provided for in section 3(o) of the Act;
    - (ii) promote and encourage trustworthiness and quality of service by security service providers; and
  - (c) enhance the efficiency and effectiveness of investigations of complaints by clarifying procedures for -
    - (i) the lodging of complaints in terms of these regulations with the Authority;
    - (ii) mode of complaints to the Authority;
    - (iii) action on receipt of the complaint by the Authority;
    - (iv) time frames for the taking of actions provided for in these Regulations;
    - (v) time frames for complainants and security service providers to respond to the findings of the Authority;
    - (vi) the steps the Complaints Office may take if any person or security service provider fails to comply or adhere to stipulated time frames in the Compliance Notice; and
  - (d) provide for the steps the Complaints Office may take if any person fails to comply or adhere to the provisions of these regulations;
- (2) These regulations must be interpreted in accordance with their purpose and in a manner consistent with the Act, the Protection of Personal

Information Act, 2013, (Act No. 4 of 2013) and any other legislation regulating private security service providers.

### **Application**

3. These regulations apply to –
- (1) All security service providers;
  - (2) Every person using his or her own employees in connection with the rendering of private security services, to the extent provided for in the Act and these regulations; and
  - (3) Every person who lodges a complaint with the Complaints Office regarding the quality of service of security service providers.

## **CHAPTER 2**

### **Persons who may lodge a Complaint**

4. (1) Any person may lodge a complaint, including –
- (a) clients of security service providers;
  - (b) service as defined in terms of the Act;
  - (c) organ of State
  - (d) members of the public and the security industry;
  - (e) any person acting in the public interest or acting on behalf of a person mention in par (a)-(d) of this sub-regulation.

### **Procedure for submission of Complaints**

5. (1) Any person who lodges a complaint against a security service provider must –

- (a) submit a complaint in the prescribed **Form 1** to these Regulations, to the Authority's Complaints Office by e-mail, hand delivery or post;
  - (b) the complaints form, **Form 1** to the Regulations, shall be made available at the offices of the Authority and any office designated by the Authority during office hours;
  - (c) if submitting electronically online, complete online complaints form on the website of the Authority;
  - (d) if submitting electronically online, complete the online complaints form on the website of the Authority or the mobile application;
  - (e) submit a complaint in any format prescribed by the Authority from time to time; and
  - (f) submit any further information required by the Authority.
- (2) A complaint submitted in terms of sub-regulation (1) of this regulation must be accompanied by all the necessary supporting documents.
- (3) Where the complainant fails to submit supporting documents in terms of sub-regulation (2) of this regulation, the complainant must submit such supporting documents within seven (7) business day from date of receipt of request by the Authority to do so.
- (4) A complaint submitted on behalf of another person must be accompanied by a consent signed by the person on whose behalf a complaint is submitted.
- (5) A consent contemplated in sub-regulation (2) must contain -
- (a) details of the complainant;
  - (b) details of the security service provider;
  - (c) full name and signature of the complainant;
- (6) The Complaints Office will help any person who wishes to make a complaint, to put that complaint in writing.



- (7) Should the complainant require assistance in a language other than English, the Complaints Office will strive to provide a person competent in the language of the complainant in order to assist the complainant.

### **Preliminary Assessment of Complaints**

6. (1) The Complaints Office will upon receipt of a complaint –
- (a) assess the complaint received to determine the action to be taken in processing the complaint; and
  - (b) where necessary request for further information or documents from the complainant regarding the complaint;
  - (c) inform the security service provider to whom the complaint relates of the complaint and must inform the security service provider of his/her right to submit a written response to the complaint or the subject matter of the complaint within fourteen (14) business days;
- (2) The Complaints Office must upon conclusion of the assessment process refer the complaint for an investigation in terms of these regulations within seven (7) business day of conclusion of the assessment process.

### **Referral of Complaints to a competent Authority**

7. (1) Where it becomes apparent to the complaints office that the complaint may potentially involve matters that are outside its jurisdiction, the complaint officer must invite and advise the complainant to refer the matter to the relevant competent authority.
- (2) The complaint office will give the necessary support to ensure that the complaint is registered with the competent authority as contemplated in sub-regulation (1).

### **Conciliation of Complaints**

8. (1) If during the preliminary assessment process of a complaint the Complaints Office decides to convene a conciliation meeting with the parties involved, the Complaints Office must, as soon as it is practically possible, inform the complainant and the security service provider implicated in the complaint of -
- a) the Authority's decision to proceed with the conciliation meeting;
  - b) details of the Conciliator in the matter; and
  - c) the date, time and place of the conciliation meeting.
- (2) The Complaints Office-
- a) may consolidate separate complaints, which relate to the same incidences by the same service provider, in order to deal with the complaints in the same conciliation proceedings.
  - b) must ensure that all persons entitled to attend the conciliation meeting are notified within a reasonable time, of the date, time and place of the meeting;
  - c) may request relevant documentation relating to the complaint from the complainant and the security service provider; and
  - d) may confer with the parties in person, by electronic communication means, or by any other means as is deems appropriate.
- (3) Where a conciliation meeting fails to take place, the Complaints office must arrange for an alternative date and notify the persons entitled to attend the conciliation meeting accordingly.
- (4) The Complaints Office must issue a conciliation report within thirty (30) business days after the date of the conclusion of the conciliation meeting.
- (5) If the complaint is not resolved, or either or both of the parties did not attend a conciliation meeting, the Complaints Office will process the complaint further in terms of these regulations and inform the complainant and the

security service provider of the course of action taken by the Complaints Office within fourteen (14) business days from the date on which the conciliation meeting was scheduled.

### **Settlement of complaints**

9. (1) If it appears from a complaint or any written reply to the complaint under these regulations or during a conciliation meeting, that it may be possible to secure a settlement between the parties, the Complaints office may confer with the parties in person, by electronic communication , or by any other means as is deemed appropriate to endeavor to obtain a settlement.
- (2) If during the process referred to in sub-regulation (1) the Complaints Office decides to convene a settlement meeting, the Complaints Office must, as soon as it is practically possible, inform the complainant and the security service provider of the date, time and place of the settlement meeting.
- (3) The Complaints Office must issue a settlement agreement within a reasonable time after the date of the conclusion of the settlement meeting.
- (4) If no settlement is secured or if either or both of the parties did not wish to attend a settlement meeting, the Complaints Office must initiate an investigation into the matter and as soon as is reasonably practicable inform the complainant and the security service provider of the course of action that the procedures the Complaints Office proposes to adopt under this sub-regulation.

### **Investigation and the use of Expert Assistance**

10. (1) Where the Complaints Office intends to investigate any matter contemplated in these Regulations, the Complaints Office must in line with rules of administrative justice, notify the parties to whom the investigation relates of such intention to conducting the investigation.

(2) The Complaints Office shall be sufficiently empowered to engage the services of a person or persons to assist with or performs services for the Office and the conduct of an investigation.

(2) The Complaints Office shall make a recommendation to the Director in terms of section 31(5) of the PSIR Act, in instances where it is necessary to utilize another person not employed by the Complaints Office but who is an expert in the subject matter of the complaint.

### **Informing the parties of developments regarding investigation**

11. (1) During the course of an investigation, the Complaints Office must within twenty-one (21) business days from the date of a decision being made or action being taken, keep the complainant, and the security service provider informed of the developments of the investigation; and

(2) The notifications contemplated in sub-regulation (1) must be served at the designated addresses of the complainant and the security service provider advising-

- a) that following the investigation into the complaint, the Complaints Office has concluded that the complaint has no merit and as such, no order against the security service provider will be made;
- b) that the complaint has been referred to Competent Authority and the Complaints Committee;
- c) that a compliance notice has been served by the Complaints Office following the recommendations received from the Complaints Committee;
- d) that an appeal against a compliance notice has been allowed and that an Appeal Committee, as contemplated in section 30 of the Act, is considering the application.
- e) that an appeal has been concluded and the outcomes thereof.

## **Investigation outcomes**

### **Minor Breach**

12. (1) Where the complaints office investigates a matter and finds –
- (a) that a security service provider acted inappropriately in the provision of security service;
  - (b) that in the investigator's opinion the action of the service provider as contemplated in paragraph (a) above is minor;
  - (c) the security service provider has made rectifications;

the investigator shall prepare a report on his/her findings and recommendations for the matter to be closed for consideration by the head of the Complaints office.

- (2) If the recommendations of the investigator are supported and approved by the head of the Complaints office, the Complaints office shall within seven (7) business days advise parties in writing of the findings.

### **Decline to Investigate**

13. (1) If the Complaints Office receives a complaint and upon assessment finds no evidence or insufficient evidence to substantiate the complaint, the Complaints Office shall decline to process or investigate the complaint any further.
- (2) The Complaints Office shall advise the security service provider and the complainant of the decision as contemplated in sub-regulation (1).

### **Complaints where a security service provider has failed or declined to take rectification action**

14. (1) Where after investigating a complaint, the Complaints Office finds that the security service provider has not rendered quality services as required, and the security service provider has failed or refused to undertake the stipulated rectification action, the investigator shall report his or her findings and conclusions to Complaints Committee including recommendation as to the sanctions, if any that should be imposed.
- (3) The security service provider shall have a right to provide representations against the investigator's findings, conclusions and recommendations with the Complaints where they have been so reported to the Committee.

#### **Complaints Committee**

15. (1) The Complaints Committee is established by the Director for the purpose of adjudicating complaints where investigation was necessary;
- (2) The Complaints Committee will be constituted from different departments of the Authority as determined by the Director.
- (3) The Complaints Committee shall, after receiving the report from the investigator as well as representations from the security service provider -
- a) Consider the investigation report and make findings or recommendations, including appropriate sanctions or referral for adjudication in terms of the Improper Conduct Enquiries Regulations, 2003; and
  - b) Report its findings and recommendations, including appropriate sanctions to the Complaints Office for notification to the parties;
- (4) The findings and sanctions of the Complaints Committee shall be binding on all the parties.

#### **Records of the Complaints Office**

16. (1) The Complaints Office shall keep records of advises given, and the factual information on which it is based, complaints and investigations.
- (2) The records of the Complaints Office in this regard shall be kept in line with the Republic's prevailing privacy laws as well as those provisions of the PSIR Act that deals with record keeping and access.
- (3) Matters generally dealt with by the Office include -
- a) The number and types of complaints received;
  - b) The number of investigations undertaken;
  - c) The number of matters which the Office declined to investigate;
  - d) The number of matters dealt with through rectification and rectification procedures;
  - e) Number of matters where the security service provider failed or refused to undergo rectification process; and
  - f) The types of sanctions imposed.

### **CHAPTER 3**

#### **GENERAL PROVISIONS**

##### **Short title and commencement**

17. These regulations are called the Establishment and Operation of Complaints Office Draft Regulations, 2023, and shall come into operation, unless otherwise specified, on the date of their publication in the *Gazette*.

**PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY (PSIRA)**

420 Witch-Hazel Avenue, Block B Eco Glades 2 Office Park, Highveld Ext 10

Tel. 086 10 (PSIRA) 77472

Int. +27 12 337 5500

Fax no.: 086 242 7180 / 086 246 7750

Email: [info@psira.co.za](mailto:info@psira.co.za)Website: [www.psira.co.za](http://www.psira.co.za)How must we communicate with you? Email  / Post **COMPLAINT FORM 1**

<b>COMPLAINANT'S DETAILS</b>			
<b>Surname:</b>			
<b>Full Name/s:</b>			
<b>Identity Number:</b>			
<b>Postal Address:</b>			<b>Postal Code:</b>
<b>Residential Address:</b> (If not same as postal)			<b>Postal Code:</b>
<b>Contact Details:</b>	<b>Phone Number:</b>		
	<b>Alternative Number:</b>		
	<b>Email Address:</b>		
	<b>Fax Number:</b>		

Please notify us immediately if there are any changes to your personal contact details.

<b>DETAILS OF COMPLAINT</b>		
<b>A. SECURITY SERVICE PROVIDER'S DETAILS</b> (please share the following details to help identify the security service provider that the complaint relates to)		
<b>For complaints against businesses</b>	<b>Name:</b>	
	<b>Business Address:</b>	
	<b>Registration Number:</b>	
<b>For complaints against individuals</b>	<b>Name:</b>	
	<b>Work Address:</b>	
	<b>ID Number:</b>	
<b>Any other information to help identify security service provider:</b>		
<b>B. BACKGROUND INFORMATION</b> (please attach a letter if space provided is not enough)		

**Council Members:** Dr Leah Mofofome (Chairperson), Mr Matome Solomon Ra'ebipi (Deputy Chairperson), Humphrey Nhlanhla Ngubane (Council Member), Dr Sithembile Nombali Mbete (Council Member), and Ms Thandeka Ntshangase (Council Member)





You confirm and declare that the information in this Complaint Form is complete, accurate and not misleading. Any changes to the information submitted, including your contact information, will be submitted to PSiRA without delay.

\_\_\_\_\_  
Complainant's signature

\_\_\_\_\_  
Authorised representative signature

**Council Members:** Dr Leah Mofomme (Chairperson), Mr Matome Solomon Ralebipi (Deputy Chairperson), Humphrey Nhlanhla Ngubane (Council Member), Dr Sithembile Nombali Mbete (Council Member), and Ms Thandeka Ntshangase (Council Member)

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