

DEPARTMENT OF POLICE

NOTICE 2376 OF 2024

NOTICE CALLING FOR PUBLIC COMMENTS**DRAFT IMPROPER CONDUCT ENQUIRIES AMENDMENT REGULATIONS IN THE PRIVATE SECURITY INDUSTRY MADE UNDER THE PRIVATE SECURITY INDUSTRY REGULATION ACT, 2001 (ACT NO 56. OF 2001)**

I, Bhekokwakhe Hamilton Cele, Minister of Police, acting under section 35 of the Private Security Industry Regulation Act, 2001 (Act No 56 of 2001) hereby intend to make amendments to the Improper Conduct Enquiries Regulations, 2003.

The draft amendments are contained in the Schedule to this Notice and are hereby published for general information and written comment from interested and / or affected persons.

Any written comment must be submitted to the Office of the Director: Private Security Industry Regulatory Authority. The comment must reach the said office not later than four weeks from the date of this 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: Regulations@psira.co.za



BHEKI CELE, MP

Minister of Police

Date: 31/01/2024

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from the existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

Definition

1. In this Schedule, "the Regulations" means the Improper Conduct Enquiries Regulation, 2003 published under Government Notice No. R.753 of 14 February 2002.

Amendment of Regulation 1 of the Regulations

1. Regulation 1 of the Regulations is hereby amended –
 - a. by the insertion before the definition of "security service provider" of the following definition:

"witness subpoena" means a written order that requires a person to appear before an enquiry , or other legal proceedings, and testify, or produce documentation.

Amendment of Regulation 8 of the Regulations

2. Regulation 8 of the Regulations is hereby amended-

Witnesses and related matters

- a. by the substitution of subregulation (1) of the following regulation:

(1) The director may, under his or her signature, **[summon]** subpoena any person to appear at an enquiry, at a date, time and place referred to in the **[summons]** witness subpoena, to give evidence and to produce at the enquiry any document referred to in the **[summons]** witness subpoena, which may be relevant to the enquiry, and which is, or presumably is, in the possession of the person in question.

- b. by the substitution of subregulation (2) of the following regulation:

(2) **[A summons]** A witness subpoena referred to in subregulation (1) is in the form materially corresponding to the Annexure, as determined by the [that the] director [determines] from time to time.

- c. by the substitution of subregulation (3) of the following regulation:

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

- d. by the substitution of paragraph (b) of subregulation (4) of the following regulation:

(b) issue **[a summons]** the witness subpoena in the form contemplated in subregulation (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.

- e. by the substitution of subregulation (5) of the following regulation

(5) A directive of the presiding officer as referred to in subregulation (4)(a), has for all the purposes of these Regulations the effect of **[a summons] the witness subpoena** contemplated in subregulation (4)(b).

- f. by the substitution of subregulation (3) of the following regulation:

(6) The presiding officer may at the time 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 all the purposes of these Regulations the effect of **[a summons] the witness subpoena** contemplated in subregulation (4)(b).

Amendment of Regulation 15 of the Regulations

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

Amendment of Regulation 15 of the Code of Conduct

- a. by the substitution for paragraph (a) of subregulation (2) of the following paragraph:

(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] upon service of notification of Improper Conduct Enquiries outcome**, 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. by the insertion of paragraph (c) and (d) under subregulation 2 of the regulations:

(c) A respondent who is unable to pay a fine in terms of subparagraph (a) and intends to lodge an appeal must furnish the Authority with an affidavit confirming that the respondent is unable to pay the imposed fine upfront.

(d) The Authority may grant consent for the respondent to proceed with the appeal without payment of the imposed fine, if the respondent has furnished sufficient reasons and attached relevant proof of inability to pay the imposed fine, such as the respondent's bank statement (not older than 3 months) or financial audited statement to the affidavit made in terms of paragraph (c).

c. by the insertion of subregulation 2A after paragraph (c) of subregulation 2 of the regulations:

2A (1) Payment of a fine must be made by the respondent to the Authority by paying the full amount due immediately by means of an electronic transfer (EFT) into the bank account of the Authority as indicated on the notification of the Improper Conduct Enquiry outcome or the settlement agreement.

(2) If payment of a fine remains dishonoured by any respondent for a period exceeding thirty days after service of the notification of Improper Conduct Enquiries outcome by the Authority, the Authority will be entitled to institute legal proceedings to enforce compliance with the outcomes of the improper conduct enquiry.

(3) Where a respondent is unable to settle the fine amount in a single payment, the respondent is required to approach the Authority within a period of thirty days after receipt of notification of outcome of improper conduct enquiry to make payment arrangements.

(4) The payment arrangements in terms of subregulation (3) will entail signing of an acknowledgement of debt.

Short title and commencement

6. These regulations are called the Draft Improper Conduct Enquiries Amendment Regulations, 2022, and come into operation, unless otherwise specified, on the date of their publication in the *Gazette*.

ANNEXURE

WITNESS SUBPOENA
PRIVATE SECURITY INDUSTRY REGULATION ACT
(ACT No. 56 of 2001)

- (1) **[Summons] Subpoena** referred to in Regulation 8(1) of the Improper Conduct Enquiries Regulations, 2003, as published under Government Notice No. 306 of 2003, published in Government Gazette No. 24971 dated 28 February 2003.

In the matter between

COMPLAINANT:

and

RESPONDENT:

- (2) To: The person authorised to serve subpoenas

Serve this subpoena on:

SURNAME:	
FULL NAMES:	
ID. NUMBER/DATE OF BIRTH:	
HOME ADDRESS:	
HOME TELEPHONE NUMBER:	
WORK ADDRESS:	
WORK TELEPHONE NUMBER:	

who is hereby subpoenaed by the enquiry to appear in person before this enquiry on the day of 20 at (time) in the above-mentioned matter to give evidence and/or to produce the book/s, document/s or object/s specified in the list hereunder.

(3) LIST AND DESCRIPTION OF BOOK/S, DOCUMENT/S OR OBJECT/S TO BE PRODUCED:

- a.
- b.
- c.
- d.
- e.

(4) **You are hereby summoned in terms of Regulation 8(1) of the Improper Conduct Enquiries Regulations, 2003, as published under Government Notice No. 306 of 2003 in Government Gazette No. 24971 dated 28 February 2003, to appear and remain present on the above date and time and at the abovementioned place for the purpose of an enquiry by the Private Security Industry Regulatory Authority in terms of the Improper Conduct Enquiries Regulations, 2003 into charges of improper conduct against the Respondent.**

(5) **If you, without good cause refuse or fail to comply with the provisions of the subpoena and / or after you have been called upon to give evidence at an enquiry, refuse to be sworn in as a witness or to make an affirmation, or to produce a document or, after you have been put under oath or affirmation, refuse to answer a lawful question put to yourself, you will be 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 in terms of Regulation 19(2) of the Improper Conduct Enquiries Regulations, 2003.**

SIGNATURE

DESIGNATION

SIGNED AT _____ ON THIS THE _____ DAY OF _____ 2022.