## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

#### **DEPARTMENT OF POLICE**

#### **NOTICE 2447 OF 2024**

#### **NOTICE CALLING FOR PUBLIC COMMENTS**

# DRAFT <u>IMPROPER CONDUCT ENQUIRIES AMENDMENT REGULATIONS</u> 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**

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## **Street address:**

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

E-mail: <u>Regulations@psira.co.za</u>

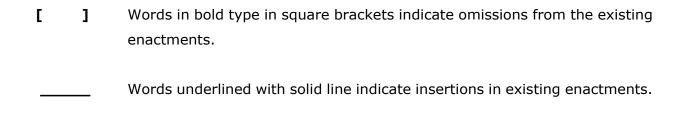
## **BH CELE, MP**

## **Minister of Police**

<u>Date</u>:

#### **SCHEDULE**

#### **GENERAL EXPLANATORY NOTE:**



## **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]** <u>subpoena</u> any person to appear at an enquiry, at a date, time and place referred to in the **[summons]** <u>witness subpoena</u>, to give evidence and to produce at the enquiry any document referred to in the **[summons]** <u>witness subpoena</u>, 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]** <u>subpoenaed</u> to present evidence at an enquiry must, with the written permission of a presiding officer, draft, sign and serve a **[summons]** witness <u>subpoena</u>, 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.

(1)	[Summons] Subpoena referred to in Regulation 8(1) of the Improper Conduct Enquirie			
	Regulations, 20	003, as published under Government Notice No. 306 of 2003, published in		
	Government Ga	azette No. 24971 dated 28 February 2003.		
In the	matter betweer	<u>1</u>		
СОМІ	PLAINANT:			
and				
RESP	ONDENT:			
(2)	To: The person	authorised to serve subpoenas		
Serve	this subpoena o	<u>n:</u>		
SUR	NAME:			
FULL	NAMES:			
ID.	NUMBER/DATE			
OF E	IRTH:			
НОМ	E ADDRESS:			
НОМ	E TELEPHONE			
NUM	BER:			
WOF	K ADDRESS:			
WOF	K TELEPHONE			
NUM	BER:			
	-	enaed by the enquiry to appear in person before this enquiry on the		
<u></u>		ay of at		

e (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.

STONED	AT ON THIS THE	DAYOF	2022
SIGNAT	URE	DESIGNATION	
	exceeding 24 months, or to both the fin Regulation 19(2) of the Improper Condu	<del>-</del>	
	refuse to answer a lawful question put offence and on conviction liable to a fine	to yourself, <u>you will be gu</u>	ilty of an
(5)	If you, without good cause refuse or fail subpoena and / or after you have been enquiry, refuse to be sworn in as a with produce a document or, after you have	called upon to give evide ess or to make an affirmat	nce at an ion, or to
	Regulations, 2003 into charges of impro		-
	abovementioned place for the purpose of Industry Regulatory Authority in terms		-
	No. 306 of 2003 in Government Gazette to appear and remain present on the		-
(4)	You are hereby summoned in terms of Conduct Enquiries Regulations, 2003, as		
	e		
	d		
	C		
	b		
	a		
(3)	LIST AND DESCRIPTION OF BOOK/S, DOCUM	ENT/S OR OBJECT/S TO BE PI	RODUCED: