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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- THIRD SESSION (2019)

COMMITTEE ON DELEGATED LEGISLATION

**REPORT ON THE CONSIDERATION OF THE PRIVATE
SECURITY (GENERAL) REGULATIONS, 2019**

(Legal Notice No. 108 of 2019)

NOVEMBER 2019

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The National Assembly,
Parliament Buildings,
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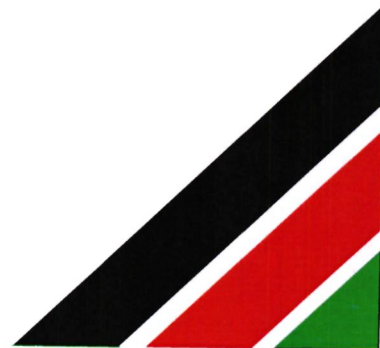


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ABBREVIATIONS

KEPSA	Kenya Private Sector Alliance
KSIA	Kenya Security Industry Association
LN	Legal Notice
NITA	National Industrial Training Authority
PROSAK	Protective & Safety Association of Kenya
PSIA	Protective Security Industry Association
PSRA	Private Security Regulations Act, 2016
RMA	Regulatory Making Authority
SI	Statutory Instruments
SO	Standing Order

CHAIRPERSON'S FOREWORD

In exercise of the powers conferred by sections 11(2), 45(2), 46(4), 47(5), 48(4), 51(2), 61(4) and 70 of the Private Security Regulation Act (PSRA), 2016, the Cabinet Secretary for Interior and Coordination of National Government made the Private Security (General) Regulations, 2019 to operationalise the Private Security Regulations Act, 2016.

The Regulations were published vide Legal Notice No.108 of 2019 on 5th July, 2019, received by the Clerk of the National Assembly on 11th July, 2019 and tabled before the House on 23rd July, 2019, being within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act.

Pursuant to section 16 of the SI Act, the Committee conferred with the regulation making authority through a meeting held on 29th October, 2019 at Parliament Buildings. The delegation was led by Dr (Eng.) Karanja Kibicho, the Principal Secretary, State Department for Interior. The Committee also acceded to requests by various stakeholders to appear before it to present their submissions regarding the Regulations. These include – the Kenya Private Sector, the Joint Security Industry Association, the National Industrial Training Authority (NITA) and the Kenya National Private Security Worker's Union.

The Committee also received views from Lt.Col.(Rtd) Julius Githiri an interested member of the public who is also the Founder and Executive Director of the Institute of Professional Security Studies.

Having considered the Private Security (General) Regulations, 2019 against the Constitution, the Interpretations and General Provisions Act (Cap 2) Laws of Kenya, the Private Security Regulation Act, 2016 and the Statutory Instruments Act (No 23 of 2013), the Committee recommends to the House the **annulment** of the Regulations for the following reasons –

- i. **inadequate public participation contrary to Articles 10 and 118 of the Constitution, section 5, 5A and the Schedule to the Act and Standing Order 210.**
- ii. **Contrary to section 13(a) of the Statutory Instruments Act, the power to make regulations has not been properly invoked;**
- iii. **contrary to section 13(a) and 13 (h) of the Statutory Instruments Act, 2016 the regulations are defective in drafting and the power to make regulations has not been properly invoked or require elucidation;**
- iv. **pursuant to section 13(c) of the Statutory Instruments Act, the issues addressed in Regulation 25(5) would be better addressed in a statute and not the Regulations.**
- v. **unjustifiable delay in the publication of the Regulations or laying before Parliament contrary to section 13(j) of the Statutory Instruments Act, 2013;**

- vi. **contrary to section 13(k) of the Statutory Instruments Act, the Regulations make rights, liberties or obligations unduly dependent upon non-reviewable decisions;**
- vii. **contrary to section 13(l) of the Statutory Instruments Act, the Regulations make rights, liberties or obligations unduly dependent on insufficiently defined administrative powers; and**
- viii. **Contrary to section 13(m) of the Statutory Instruments Act, the Cabinet Secretary inappropriately delegates powers to the Authority to make guidelines on training facilities (Regulation 19 (2)(a)).**

I wish to most sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate.

On behalf of the Members of the Select Committee on Delegated Legislation and pursuant to section 15(1) of the Statutory Instruments Act, 2013 and Standing Order 210 (4) (b), it is my pleasure and duty to present to the House the Committee's **Report on the Consideration the Private Security (General) Regulations, 2019 (Legal Notice No. 108 Of 2019).**

HON. GLADYS BOSS SHOLLEI CBS MP

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established pursuant to *Standing Order No. 210* and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. The Committee is mandated to consider in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the court;
 - f) gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;
 - g) it involves expenditure from the consolidated fund or other public revenues;
 - h) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
 - l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
 - m) inappropriately delegates legislative powers;
 - n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
 - o) appears for any reason to infringe on the rule of law;
 - p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
 - q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises -

Chairperson

Hon. Gladys Boss Shollei CBS MP
Uasin Gishu County Woman Representative

Jubilee Party

Vice- Chairperson

Hon. Fatuma Gedi, MP
Wajir County Woman Representative
Party for Development and Reforms

MEMBERS

Hon. Waihenya Ndirangu, MP
Roysambu Constituency
Jubilee Party

Hon. Ronald Tonui, MP
Bomet Central Constituency
Jubilee Party

Hon. Alice Wahome, MP,
Kandara Constituency
Jubilee Party

Hon. William Kamoti, MP
Rabai Constituency
Orange Democratic Movement

Hon. Robert Mbui, MP
Kathiani Constituency,
Wiper Democratic Movement -Kenya

Hon. Martha Wangari, MP
Gilgil Constituency
Jubilee Party

Hon. Daniel Maanzo, MP
Makueni Constituency
Wiper Democratic Movement -Kenya

Hon. Gideon Mulyungi, MP
Mwingi Constituency
Wiper Democratic Movement – Kenya

Hon. Muriuki Njagagua, MP
Mbeere North Constituency
Jubilee Party

Hon. William Kassait Kamket, MP
Tiaty Constituency
KANU

Hon. Timothy Wanyonyi, MP
Westlands Constituency
Orange Democratic Movement

Hon. (Dr.) Wilberforce Oundo, MP
Funyula Constituency
Orange Democratic Movement

Hon. George G. Murugara, MP
Tharaka Constituency
Jubilee Party

Hon. Jennifer Shamalla, MP
Nominated
Jubilee Party

Hon. Munene Wambugu, MP
Kirinyaga Central Constituency
Jubilee Party

Hon. Muturi Kigano, MP
Kangema Constituency
Jubilee Party

Hon. Patrick Kariuki Mariru, MP
Laikipia West Constituency
Jubilee Party

Hon. Sammy Seroney, MP
Nominated
Wiper Democratic Movement - Kenya

Hon. Tindi Mwale, MP
Butere Constituency
Amani National Congress

Hon. Alfred W. Sambu, MP
Webuye East
Amani National Congress

Hon. Abdi Koropu Tepo, MP
Isiolo South Constituency
Kenya Patriots Party

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises –

Ms. Susan Maritim
Senior Clerk Assistant (Team Leader)

Mr. Jimale Mohamed
Second Clerk Assistant

Mr. Wilson Dima Dima
Principal Legal Counsel

Mr. Josphat Motonu
Fiscal Analyst I

Ms. Anne Njeri Kigoro
Research Officer III

Ms. Winnie Kiziah
Media Relations Officer II

Mr. Anthony Wamae
Serjeant at Arms

Mr. Charles Ayari
Superintendent of Electronics

Ms. Mary Otieno
Office Superintendent

2.0 CONSIDERATION OF THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019

2.1 Introduction

5. The Cabinet Secretary for Interior and Coordination of National Government made the Private Security (General) Regulations, 2019 in exercise of the powers conferred by section 11(2), 45(2), 46(4), 47(5), 48(4), 51(2), 61(4) and 70 of the Private Security Regulation Act (PSRA), 2016.
6. The Regulations were published vide Legal Notice N0.108 of 2019 on 5th July, 2019, received by the Clerk of the National Assembly on 11th July, 2019 and tabled before the House on 23rd July, 2019.

2.2 Enabling Provisions of the Private Security Regulation Act, 2016

7. The enabling provisions are –
 - i. section 11(2) provides for making of regulations on the procedure for the appointment of members of the Private Security Regulatory Authority Board;
 - ii. section 45(2) provides for making of regulations relating to the cooperation, scope, mechanism and command in the case of cooperation between national security organs with the private security service providers in the maintenance of law and order;
 - iii. section 46(4) provides for making of regulations on the responsible exercise of the power of arrest granted under the Act;
 - iv. section 47(5) provides for making of regulations on the responsible exercise of the power of arrest granted under the Act within three months of the commencement of the Act;
 - v. section 48(4) provides for making of regulations on the power to record and temporarily withhold identification documents granted under the Act;
 - vi. section 51(2) provides for making of regulations (*in consultation with private security providers*) relating to use, manufacture, importation, selling, distribution and possession of security equipment and tools of trade used in the industry. The regulations are also to provide for the classification of security equipment that may not be used without the authority of the Cabinet Secretary.
 - vii. section 61(4) provides for making of regulations on the qualifications and appointment of the Private Security Fidelity Fund Board of Trustees and any other provisions necessary to prescribe with regard to the Fund.
 - viii. section 70 provides for making of general regulations for the purpose of proper administration and giving effect to the Private Security Regulation Act to prescribe the following –
 - a. various forms to be used under the Act;

- b. the procedure for applications for the grant or renewal of licences and registration certificates and any appeals under the Act;
- c. the employment of personnel by registered private security firms;
- d. the provision of uniforms and equipment to employees of private security firms;
- e. the provision of protective gear and tools;
- f. guidelines for registered private security providers; or
- g. membership of private security service providers to corporate bodies

2.3 Overview of the Regulations

- 8. Part I (Preliminary) deals with the citation and interpretations.
- 9. Part II provides for the procedure of appointment of members of the Private Security Regulatory Authority Board.
- 10. Part III provides for the procedure and requirements for registration of private security service providers, both individual and corporate.
- 11. Part IV provides for employment and training requirements of personnel in the private security services industry while Part V speaks to the equipment and tools of trade used in the industry.
- 12. The guidelines for cooperation with national security organs have been stipulated in Part VI.
- 13. Part VII operationalises the Private Security Fidelity Fund and provides for its administration and application.
- 14. Part VIII provides for the exercise of certain powers provided for under the parent Act including the power of arrest, search, record and temporary withholding of identification documents.
- 15. The First, Second and Third Schedules provide for the forms, fees and specifications and standards for equipment and facilities respectively.

2.4 Purpose of the Regulations

- 16. The Regulations seek to –
 - i. Provide procedure for appointment of Members to the Private Security Regulatory Authority Board.
 - ii. Provide procedure, requirements and statutory forms for registration as an individual private security provider.
 - iii. Provide procedure, requirements and statutory forms for registration and licensing as a Corporate Private Security provider.
 - iv. Provide requirements for the employment and training of personnel in the private security industry.

- v. Provide for the requirements for the use of security equipment, tools of trade including uniforms, animals, communication equipment and vehicles.
- vi. Provide for the specifications and standards of equipment and facilities used in private security.
- vii. Provide the scope and procedure for cooperation between private security industry and national security industry.
- viii. Operationalize the Private Security Fidelity Fund, its Board of Trustees, Sources of the funds, uses of the fund and administration of the fund.
- ix. Provide rules for the exercise of the power of arrest by a registered private security officer.
- x. Provide rules for the exercise of the power of search by a registered private security officer.
- xi. Provide rules for the exercise of the power to record and temporarily withhold identification documents by a registered private security officer.
- xii. Provide the categories and fees for corporate private security providers.
- xiii. Provide for the categories and fees for individual private security providers.

2.5 Scrutiny of the Regulations

17. The Committee considered the Private Security (General) Regulations, 2019 against the Constitution, the Interpretations and General Provisions Act (*Cap 2*) Laws of Kenya, the Private Security Regulation Act, 2016 and the Statutory Instruments Act (*No 23 of 2013*).
18. Pursuant to section 16 of the SI Act, the Committee conferred with the regulation making authority through a meeting held on 29th October, 2019 at Parliament Buildings. The delegation was led by Dr (Eng.) Karanja Kibicho, the Principal Secretary State Department for Interior.
19. The Committee also acceded to requests by various stakeholders to appear before it to present their submission regarding the Regulations. These include – the Kenya Private Sector, the Joint Security Industry Association, the National Industrial Training Authority (NITA) and the Kenya National Private Security Worker’s Union. The meeting was held on 29th October, 2019. The Committee also received views from Lt. Col. (Rtd) Julius Githiri an interested member of the public who is also the Founder and Executive Director of the Institute of Professional Security Studies.
20. The Committee also met on 2nd November, 2019, while in Diani, Kwale County, to consider **the Private Security (General) Regulations, 2019 among other Instruments.**

They presented as follows –

2.5.1 Submissions by the State Department for Interior

21. Dr. (Eng.) Karanja Kibicho, the Principal Secretary, State Department for Interior, appeared before the Committee on 29th October, 2019 accompanied by Mr. Fazul

Mohammed, Chief Executive Officer of the Private Security Regulation Authority and other officials.

22. The Principal Secretary informed the Committee that the Ministry in coming up with the Regulations tried as much as possible to incorporate views from all concerned stakeholders and that the Ministry has since the enactment of the Act in March, 2016 been setting up the infrastructure and framework for Regulations stipulated under the law.
23. Stakeholders consulted included the: Private Security Regulatory Authority as stipulated in Section 70 of the PSRA, 2016, the National Security Advisory Council, industry employers' association, the Kenya National Private Security Workers' Union, corporate private security providers, individual private security providers, private security services consumers, Civil Society Organisations and the general public.
24. The public engagements were conducted by the County Commissioners who are the National Government representatives in the Security and Intelligence Committees. A meeting was also conducted at the Kenya School of Government which, he observed, was inclusive and comprehensive.
25. The Principal Secretary reiterated that the 6 months compliance timeframe provided in the Regulations can be negotiated with the stakeholders.
26. Dr. Kibicho also pleaded with the Committee to consider approving the Regulations which will among others, improve the welfare of the approximately 500, 000 guards whose working conditions and remuneration need improving.

2.5.2 Submissions by the Joint Security Industry Association

27. The Joint Security Industry Association appeared before the Committee on 29th October, 2019 led by Mr. Enock Makanga and Mr. Cosmas Mutava. The Association brings together three security industry associations namely the Kenya Security Industry Association (KSIA), the Protective Security Industry Association (PSIA), the Protective & Safety Association of Kenya (PROSAK).
28. The Joint Security Industry Association reiterated that the private security sector employs approximately 500,000 security officers who offer security services to industrial, residential and commercial properties both in public and private institutions. Hence the significance of this sector to the economy cannot not be overstated.
29. The Association applauded the Ministry of Interior and National Coordination for operationalising the Private Security Regulations Act, 2016 by gazetting the Regulations. The Association however took issue with some of the provisions in the Regulations.
30. The **eight (8) key issues** raised by the Association are as follows –
 - i. the **six (6) months compliance period under Regulation 17 is too short** to comply with the stipulated requirements. The Association proposes a minimum of five years transition period to be able to fully comply with the Act.

- ii. **Regulation 19** provides for the mandatory training of security officers, managers and directors prior to issuance of individual and corporate licences to operate. The Association posits that there is no accredited institution, trainers, assessment criteria and approved curriculum by the PSRA, 2016. It is therefore not feasible to train 500,000 people in 6 months.
- iii. **inadequate public participation:** The Association alleged that the regulation making authority did not adequately conduct public participation in the 47 Counties and in particular with the private security providers.
- iv. **Regulation 16(e) requires proof of compliance with the set minimum wages.** The Association proposes harmonisation of legislation governing labour matters particularly in private security. If the Regulations are effected in the current form, companies would need to pay a salary of Kshs 27,993 for a night guard and Kshs 25,641 for a day guard. A client would therefore be required to charge clients a minimum Kshs 51,000, less administrative costs and other related charges. The Association therefore found the **costs unsustainable in an already burdened economic environment**. The Association also submitted that even government agencies are yet to comply with minimum wage owing to the unsustainability of the Order.
- v. **Under representation in the Private Security Authority Board:** The Association opines that the two slots provided in Section 11(1)(vii) of the PSRA, 2016 are not adequate to represent their interests in the 11-member Board.
- vi. On the **Private Security Fidelity Fund established by Section 61 of the PSRA, 2016** whose Board of Trustees is established in **Regulation 27**, the Association observed that it needs more positions on the Board and that the use of the funds be clearly defined in accordance with the relevant legislations.
- vii. On the **Licences and Fees stipulated in the Second Schedule of the Regulations**, the Associations found the licences and fees very punitive and restrictive given the unfavourable economic conditions currently prevailing and the fact that the businesses pay many other licences e.g. County Licences, NEMA among others.
- viii. Section 53(a) and (b) of the PSRA, 2016 prohibits the use of firearms by private security service providers. **Regulation 25(5) implies that private security service providers may be armed when exercising the powers of a police officer**. The Association proposes more stakeholder engagement and public participation in view of the fact that private security service providers are the first casualties in case of attack.

2.5.3 Submissions by the National Industrial Training Authority

- 31. The National Industrial Training Authority (NITA) appeared before the Committee on 29th October, 2019, represented by Mr. Stephen Ogenga, Ag. Director General. He

informed the Committee that it has been involved in the development of the curricula for private security providers.

32. NITA made the following proposals to the Committee –
- (i) review of the Regulations to complement functions of the existing Industrial Training Act CAP 237;
 - (ii) reviewing of the PSRA, 2016 on training sections to complement and eliminate duplication with the Industrial Training Act, CAP 237; and
 - (iii) review PSRA, 2016 to incorporate NITA in the PSRA Board established in Section 11 of the said Act.
33. The Committee observed that NITA's request to the Committee is not within the Committee's mandate and can only be realised through an amendment to the PSRA, 2016.

2.5.4 Submissions by the Kenya National Private Security Worker's Union

34. The Kenya National Private Security Worker's Union (KNPSWU) appeared before the Committee on 29th October, 2019 led by Mr. Isaac Andabwa, the Union's National General Secretary. The Union informed the Committee that it supports the Regulations as published.
35. The Union protested the **five-year transition period requested by the private security providers as it would hurt members of the Union** (guards) owing to the low wages and poor working conditions currently being experienced.
36. The Union accused the private security providers of wanting to delay the implementation of the Regulations for their own economic benefit in as far as remuneration of the guards is concerned to benefit the Companies at the expense of the guards' wellbeing. The Union claimed that the subsidiaries of the foreign security providers, namely G4S, Wells Fargo, KK, Ultimate Security and Fidelity Security had already complied with the Regulations in as far as the minimum wage is concerned. The local companies should follow suit.

2.5.5 Submissions by the Kenya Private Sector Alliance

37. In its written memoranda to the Committee dated 31st October, 2019, the Kenya Private Sector Alliance (KEPSA) submitted that –
- i. **public participation on the Regulations was inadequate** since only one forum was held on 1st March, 2019 at the Kenya School of Government;
 - ii. there is need for a **staggered implementation** approach to allow for wider stakeholder engagement and build consensus on pertinent issues especially in as far as the issue of fees and levies is concerned.
 - iii. **Regulation 21** provides for the approved equipment and tools approved by the Authority that the private security service providers are expected to have. This

is already a function undertaken by the Communications Authority of Kenya hence a duplication of roles.

- iv. On **Regulation 30 on utilisation of the Fidelity Fund**, KEPSA proposes that the Authority is funded by the Government and the **Fidelity Fund be instead allocated to the welfare of the security officers.**

2.5.6 Submission by the Executive Director of the Institute of Professional Security Studies

38. Lt. Col. (Rtd) Julius Githiri an interested member of the public who is also the Founder and Executive Director of the Institute of Professional Security Studies appeared before the Committee on 29th October, 2019 to present his views. Lt. Col. Githiri informed the Committee that the Regulations are necessary for the security sector and the process of drafting them has eluded the sector for many years hence welcomed the move by the Ministry to gazette the Regulations.

3.0 COMMITTEE OBSERVATIONS AND GROUNDS FOR RECOMMENDING ANNULMENT

39. Having scrutinised the Instrument against the relevant provisions of the law and submissions by various stakeholders and the regulation making authority, the Committee observed THAT –

- 1) **Contrary to Articles 10, and 118 of the Constitution read with section 5 and 5A of the Statutory Instruments Act, there appears to be inadequate public participation:** Members were dissatisfied with the extent and conduct of public participation. Consumers and members of the general public were not adequately involved. Collection of the views of the members of the public was only conducted in Nairobi, excluding all other 46 counties.
- 2) The regulation making authority claimed to have conducted public participation in all the 47 counties, coordinated by the County Commissioners, but they provided no evidence to that effect. Members also observed that that certain key stakeholders and consumers of the services were excluded.
- 3) **Contrary to section 13(a) of the Statutory Instruments Act, the power to make regulations has not been properly invoked.** The Regulations are therefore not in accord with the provisions of the Constitution, the Act pursuant to which they are made and the Statutory Instruments Act. For example –
 - (i) Pursuant to **Article 259(11) of the Constitution**, where a power conferred on a person is exercisable *only on the advice... of another person*, the power may be exercised only with the advice of the other person [which has to be expressly demonstrated in the enactment provision of the Regulation]. The regulation making authority therefore should have **demonstrated this in the enactment provision.**
 - (ii) **Section 45(2) requires consultation with the Inspector General and the Authority** before making regulations relating to the cooperation,

scope, mechanism and command in the case of cooperation with the private security service providers.

(iii) **Section 51(2) requires consultation with the Authority** and private security service providers before making regulations relating to use, manufacture, importation, selling, distribution, possession and classification of security equipment.

(iv) **Section 70 of the Act requires consultation with the Authority** before making general regulations for the purpose of proper administration and giving effect to the Act.

- 4) **Use of fire arms: Section 13(c) of the Statutory Instruments Act** requires the Committee to consider whether the Regulations contain a matter which in the opinion of the Committee should be more properly be dealt with in an Act of Parliament. In considering **Regulation 25(5)**, **Members were of the opinion that the exercise of the powers of a police officer implies the use of firearms by private security providers** when working under the command of a police officer. **The use of firearms has been prohibited under section 53 of the parent Act.**

Members were of the opinion that the **issues addressed in Regulation 25(5) would be better addressed in a statute and not the Regulations.**

- 5) **Contrary to section 13(j) of the Statutory Instruments Act, there appears to be an unjustifiable delay in the publication of the Regulations** or laying before Parliament. Section 47(5) of the parent Act required the Cabinet Secretary to make regulations on the power of search within 3 months of the commencement of the Act, which date of commencement was 3rd June, 2016. Accordingly, the latest date by which the regulations ought to have been made should have been the 3rd of September 2016.
- 6) **Contrary to section 13(m) of the Statutory Instruments Act**, which requires the Committee to consider if the Regulations inappropriately delegate legislative powers, in **Regulation 19(2)(a)**, **the Cabinet Secretary inappropriately delegates powers to the Authority to make guidelines on training facilities.** Guidelines are by themselves statutory instruments within the meaning of section 2 of the Statutory Instruments Act and ought only to be by the regulation making authority under the Act.
- 7) **Power of arrest:** Under section 13 (q) of the Statutory Instruments Act which calls upon members during scrutiny to consider whether the regulations accords any other reason that the Committee considers fit to examine, the Committee members were concerned about the **possibility of the abuse of the power of arrest**, especially on detention after arrest. The power of arrest by private security officers is granted under section 46 of the parent Act. This power is exercised by private security officers as private citizens. The Criminal Procedure Code under section 34 and 35 provides further provides guidelines on

arrests and disposal by private citizens respectively. The Constitution under Article 49 provides further the rights of an arrested person.

- 8) **Extension of time for compliance under Regulation 17 on Registration:** Regulation 17 provides for registration within 6 months after commencement of the Regulations. The stakeholders requested that the commencement date of the Regulations be extended as February 2020 would be too soon. The Principal Secretary for State Department of Interior also agreed with the stakeholders on the need for extension. Since the Regulations are already published, unless the provisions are amended, the period may not change.
- 9) **Minimum wage:** Regulation 16 (e) makes it a registration requirement to have proof of compliance with the set minimum wages published under the Labour Institutions Act. Members were of the opinion that it may not be practically possible to implement the requirement of minimum wage under the published Regulations within the time granted and since matters security affect all citizens entitled to the services of the private security guards, it would, **contrary to section 13(l) of the Statutory Instruments Act, make rights, liberties or obligations unduly dependent on insufficiently defined administrative powers.**
- 10) **Election and nomination of Board Members: section 13(q) of the SI Act** allows the Members to consider any other matter that the Committee finds fit to examine. As such, on **Regulation 6(4)** as read with Regulation 10 on election and appointment of representatives to the Board, Members were of the opinion that the Regulations violate **the principle of universal suffrage** by requiring the Cabinet Secretary to nominate one person from the three elected representatives, even where the person appointed is not the one who garnered the highest number of votes. This may **contrary to section 13(k) of the Statutory Instruments Act, make rights, liberties or obligations unduly dependent upon non-reviewable decisions.**
- 11) **Contrary to section 13(h) of the Statutory Instruments Act, certain provisions of the Regulations are defective in drafting or require elucidation which include -.**
 - (i) **Regulation 27:** The Heading on Part VII provides for “levy” while the marginal notes provide for a Fund.
 - (ii) **Article 94 (6) of the Constitution and Standing Order 118** provides that where legislative power has been delegated to a body, the body, in the exercise of such powers shall, while **making** regulations observe that the regulations made conform to and are within the purpose and objectives for which that authority is conferred; the limits of the authority; the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority.

- (iii) Section 70 of the Act provides that the Cabinet Secretary shall make general regulations for the purpose of proper administration of and giving effect to the Act. Section 70 (2) of the Act further specifies matters to be addressed by the “general regulations”. This therefore implies that to conform to the above constitutional requirements, the regulations on all other matters are to be made and published separately.

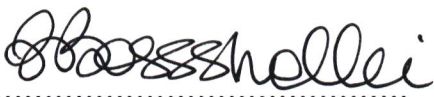
The regulation making body has instead lumped together all the Regulations under the Act as general regulations contemplated under section 70 (1) and (2) of the parent Act, ignoring that Regulations under sections 11(2), 45(2), 51(2), 61(4) according to the arrangements of the parent Act ought to be made and published separately. Article 94(6) requires that each issue be specifically addressed and be done to the letter of the law.

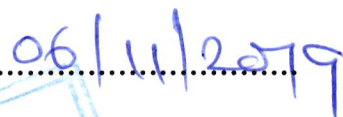
- (iv) **The regulation making body makes provisions for the exercise of the power of arrest under Regulation 37, without invoking the enabling provision under section 46(4) of the parent Act.**
- (v) **The regulation making body makes provisions for the exercise of the power of search under Regulation 38, without invoking the enabling provision under section 47(5) the parent Act.**
- (vi) **The regulation making body makes provisions for power to record and temporarily withhold identification documents under Regulation 39, without invoking the enabling provision under section 48(4) of the parent Act.**
- (vii) **Section 33 of the parent Act does not expressly empower the Cabinet Secretary to make regulations, and therefore was improperly invoked. Section 33(4) merely states that applications under section 33 be made to the authority in such form and manner as may be prescribed.**

4.0 COMMITTEE RECOMMENDATION

1. Pursuant to Standing Order 210 (4) (b) and section 15 (1) of the Statutory Instruments Act and having examined the Private Security (General) Regulations, 2019 against the Constitution, the Interpretations and General Provisions Act (Cap 2) Laws of Kenya, the Private Security Regulation Act, 2016 and the Statutory Instruments Act (No 23 of 2013) and the respective laws pursuant to which they are made, the Committee recommends that the House **annuls in entirety** the said statutory instrument for the following reasons –
- i. **inadequate public participation contrary to Articles 10 and 118 of the Constitution, section 5, 5A and the Schedule to the Act and Standing Order 210;**
 - ii. **Contrary to section 13(a) of the Statutory Instruments Act, the power to make regulations has not been properly invoked;**

- iii. contrary to section 13(a) and 13 (h) of the Statutory Instruments Act, 2016 the regulations are defective in drafting and the power to make regulations has not been properly invoked or require elucidation;
- iv. pursuant to section 13(c) of the Statutory Instruments Act, the issues addressed in Regulation 25(5) would be better addressed in a statute instead of the Regulations
- v. unjustifiable delay in the publication of the Regulations or laying before Parliament contrary to section 13(j) of the Statutory Instruments Act, 2013;
- vi. contrary to section 13(k) of the Statutory Instruments Act, the Regulations make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- vii. contrary to section 13(l) of the Statutory Instruments Act, the Regulations make rights, liberties or obligations unduly dependent on insufficiently defined administrative powers; and
- viii. Contrary to section 13(m) of the Statutory Instruments Act, the Cabinet Secretary inappropriately delegates powers to the Authority to make guidelines on training facilities (Regulation19(2)(a)).

Signed.....

HON. GLADYS BOSS SHOLLEI CBS MP
 (CHAIRPERSON)

Date.....




5.0 ANNEXURES

1. Adoption List
2. Legal Notice 108, Explanatory Memorandum & Regulatory Impact Statement
3. Committee Minutes
4. Submissions by various stakeholders


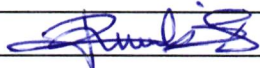
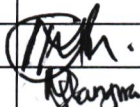


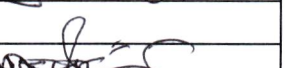


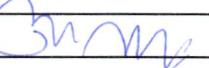

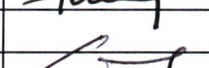

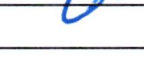


COMMITTEE ON DELEGATED LEGISLATION

ADOPTION LIST

Report on the Consideration of the Private Security (General) Regulations, 2019

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 5 November 2019

	HON. MEMBER	SIGNATURE
1.	Hon. Gladys Boss-Shollei CBS MP (Chairperson)	
2.	Hon. Fatuma Ali Gedi, MP (Vice Chairperson)	
3.	Hon. Isaac Waihenya Ndirangu, MP	
4.	Hon. Robert Mbui, MP	
5.	Hon. Alice Wahome, MP	
6.	Hon. Daniel Maanzo, MP	
7.	Hon. Muriuki Njagagua, MP	
8.	Hon. Martha Wangari, MP	
9.	Hon. Timothy Wanyonyi, MP	
10.	Hon. William Kamoti Mwamkale, MP	
11.	Hon. Patrick Kariuki Mariru, MP	
12.	Hon. Ronald Kiprotich Tonui, MP	
13.	Hon. William Kassait Kamket, MP	
14.	Hon. Munene Wambugu, MP	
15.	Hon. George Gitonga Murugara, MP	
16.	Hon. Jennifer Shamalla, MP	
17.	Hon. Muturi Kigano, MP	
18.	Hon. (Dr.) Wilberforce Oundo, MP	
19.	Hon. Sammy Seroney, MP	
20.	Hon. Tindi Mwale, MP	
21.	Hon. Gideon Mulyungi, MP	
22.	Hon. Abdi Tepo, MP	
23.	Hon. Alfred Sambu, MP	

MINUTES OF THE 60TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON SATURDAY 2ND NOVEMBER, 2019 AT 10.00 A.M. IN THE WARAIRA CONFERENCE CENTRE, JAKARANDA, DIANI, KWALE COUNTY

PRESENT

1. **The Hon. Fatuma Gedi, MP** - **Vice Chairperson**
2. The Hon. George Murugara, MP
3. The Hon. Robert Mbui, MP
4. The Hon. Waihenya Ndirangu, MP
5. The Hon. Daniel Maanzo, MP
6. The Hon. Timothy Wanyonyi, MP
7. The Hon. Kamoti Mwamkale, MP
8. The Hon. Martha Wangari, MP
9. The Hon. (Dr.) Wilberforce Oundo, MP
10. The Hon. Muriuki Njagagua, MP
11. The Hon. Jennifer Shamalla, MP
12. The Hon. Gideon Mulyungi, MP
13. The Hon. George Murugara, MP
14. The Hon. Sammy Seroney, MP

ABSENT WITH APOLOGY

1. **The Hon. Gladys Boss Shollei CBS MP** - **Chairperson**
2. The Hon. Alice Wahome, MP
3. The Hon. Munene Wambugu, MP
4. The Hon. Ronald Tonui, MP
5. The Hon. Patrick Mariru, MP
6. The Hon. Muturi Kigano, MP
7. The Hon. Kassait Kamket, MP
8. The Hon. Abdi Koropu Tepo, MP
9. The Hon. Tindi Mwale, MP

ABSENT

The Hon. Alfred Sambu, MP

IN-ATTENDANCE

National Assembly Secretariat

1. Ms. Susan Maritim - Senior Clerk Assistant
2. Mr. Jimale Mohamed - Second Clerk Assistant
3. Mr. Dima Dima - Principal Legal Counsel
4. Ms. Anne Kigoro - Research and Policy Analyst
5. Mr. Charles Ayari - Superintendent of Electronics (Audio)

6. Ms. Mary Otieno - Office Superintendent
7. Ms. Millicent O. Akhonya - Legal Pupil

MIN.NO. /NA/CDL/2019/347 PRAYER AND RELIMINARIES

The meeting commenced at 10.15 a.m. with the Prayer.

MIN.NO. /NA/CDL/2019/348 CONSIDERATION OF PRIVATE SECURITY (GENERAL), REGULATIONS 2019

The Committee observed the following:-

- (i) The Cabinet Secretary for Interior and Coordination of National Government made the Private Security (General) Regulations, 2019 in exercise of the powers conferred by section 11(2), 45(2), 46(4), 47(5), 48(4), 51(2), 61(4) and 70 of the Private Security Regulation Act, 2016.
- (ii) The regulations were published vide Legal Notice N0.108 of 2019 on the 5st July, 2019, received by the Clerk of National Assembly on 11th July, 2019 and tabled before the House on 23rd July, 2019, being within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act.

The Committee also noted the enabling Provisions of the Parent Act

1. Pursuant to section 11(2) of the parent Act the Cabinet Secretary is to make regulations on the procedure for the appointment of members of the Private Security Regulatory Authority Board.
2. Pursuant to section 45(2) of the parent Act the Cabinet Secretary in consultation with the Inspector General and the Authority, is to make regulations relating to the cooperation, scope, mechanism and command in the case of cooperation between national security organs with the private security service providers in the maintenance of law and order.
3. Pursuant to section 46(4) of the parent Act the Cabinet Secretary is to make regulations on the responsible exercise of the power of arrest granted under the Act.
4. Pursuant to section 47(5) of the parent Act the Cabinet Secretary is to make regulations on the responsible exercise of the power of arrest granted under the Act within three months of the commencement of the Act.
5. Pursuant to section 48(4) of the parent Act the Cabinet Secretary is to make regulations on the power to record and temporarily withhold identification documents granted under the Act.
6. Pursuant to section 51(2) of the parent Act, the Cabinet Secretary in consultation with the Authority and private security service providers, is to make regulations relating to use, manufacture, importation, selling, distribution and possession of security equipment and tools of trade used in the industry. The regulations are also to provide for the classification of security equipment that may not be used without the authority of the Cabinet Secretary.
7. Pursuant to section 61(4) of the parent Act the Cabinet Secretary is to make regulations on the qualifications and appointment of the Private Security Fidelity

Fund Board of Trustees and any other provisions necessary to prescribe with regard to the fund.

8. Pursuant to section 70 of the parent Act the Cabinet Secretary in consultation with the Authority, is to make regulations for the purpose of proper administration and giving effect to the Act. The general regulations are to be on the following:-
 - a. various form to be used under the Act;
 - b. the procedure for applications for the grant or renewal of licences and registration certificates and any appeals under the Act;
 - c. the employment of personnel by registered private security firms;
 - d. the provision of uniforms and equipment to employees of private security firms;
 - e. the provision of protective gear and tools;
 - f. guidelines for registered private security providers; or
 - g. Membership of private security service providers to corporate bodies.

The Committee further observed the overview of the Regulations

- 1) Part II of the regulations speaks to the procedure of appointment of members of the Private Security Regulatory Authority Board. The regulations provide for the process of formation of private security providers' associations, and election of their representatives to the Board.
- 2) Part III provides for the procedure and requirements for registration of individuals and licensing of cooperate private security service providers.
- 3) Part IV provides for employment and training requirements of personnel in the private security services industry while Part V speaks to the equipment and tools of trade used in the industry.
- 4) The guidelines for cooperation with national security organs have been stipulated in Part VI.
- 5) Part VIII operationalises the Private Security Fidelity Fund and provides for its administration and application.
- 6) Part VIII provides for the exercise of certain powers provided for under the parent Act including the power of arrest, search, record and temporary withholding of identification documents.
- 7) The first, second and third schedules provide for the forms, fees and specifications and standards for equipment and facilities respectively.

Committee observations

(a) Statutory Timelines

That the Regulations were submitted to the National Assembly within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act (hereinafter referred to as the Act) having been published on the 5th of July, 2019, received by the Clerk of National Assembly on the 11th of July, 2019 and tabled on the 23rd of July, 2019.

(b) Consultation / Public participation

Articles 10 and 118 of the Constitution, section 5, 5A and the Schedule to the Act and Standing Order 210 require the regulation-making authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the regulations.

Pursuant to section 16 of the Act, the committee had a meeting with the regulation making authority on 29th October, 2019 and was taken through the regulations. Members expressed concern and sought to know the nature, conduct and extent of public participation conducted by the regulation making body.

The regulation making authority submitted vide their explanatory memorandum that they took into account the views of key stakeholders such as the Private Security Regulation Authority, The National Security Advisory Council, Industry Employers' Associations, The Kenya National Private Security Workers' Union, Corporate Private Security Providers, Individual Private Security Providers, Private Security Services Consumers, Civil Society Organizations and the general public (Nairobi).

They also submitted that more engagements with stakeholders will be conducted for purposes of sensitization and implementation of the Legal Notice.

(c) Regulatory Impact Statement

Sections 6, 7, and 8 of the Act requires the regulatory making authority to carry out a Regulatory Impact Assessment and submit to Parliament a Regulatory Impact Statement if the proposed regulation has significant cost or impact to the community or a sect of the community.

The Private Security (General) Regulations, 2019 require a Regulatory Impact Statement within the meaning of Sections 6, 7 and 8 of the Act.

The regulation making authority submitted to the committee a Regulatory Impact Statement which concluded that the regulations will create an enabling environment for the private security industry to grow and in general improve on the industry standards, employment opportunities and standards, workers welfare, ensure better provision of better services and ultimately improve public safety and security.

Other concerns raised -

1. Contrary to section 13(a) of the Statutory Instruments Act, the **power to make regulations has not been properly invoked**, and thus the regulations are not in accord with the provisions of the Constitution, the Act pursuant to which they are made and the Statutory Instruments Act.

(i) Pursuant to article 259(11) of the Constitution, where a power conferred on a person is exercisable only on consultation with another person, the power may be exercised only after that consultation. The regulation making authority therefore should have **demonstrated this in the enabling clause**.

a. Section **45(2)** requires consultation with the Inspector General and the Authority before making regulations relating to the cooperation, scope,

mechanism and command in the case of cooperation with the private security service providers.

- b. Section **51(2)** requires consultation with the Authority and private security service providers before making regulations relating to use, manufacture, importation, selling, distribution, possession and classification of security equipment.
- c. Section **70** of the Act requires consultation with the Authority before making general regulations for the purpose of proper administration and giving effect to the Act.

(ii) **Article 94 (6)** of the Constitution and **Standing Order 118** provides that where legislative power has been delegated to a body, the body in the exercise of such power shall expressly specify

- a. the purpose and objectives for which that authority is conferred,
 - b. the limits of the authority,
 - c. the nature and scope of the law that may be made, and
 - d. the principles and standards applicable to the law made under the authority.
- Section 70 of the act provides that the CS shall make general regulations for the purpose of proper administration of and giving effect to the Act. Section 70 (2) of the act further specifies matters to be addressed by the “general regulations”. This therefore implies that regulations on all other matters were to be made and published separately.
 - The regulation making body has instead lumped together all the regulations under the Act as general regulations contemplated under section 70 (1) and (2) of the Parent Act, ignoring that regulations under sections 11(2), 45(2), 51(2), 61(4) of the Parent Act ought to be made and published separately. Article 94(6) requires that each issue be specifically addressed and be done to the letter of the law.

(iii) Section 33 of the parent Act does not expressly empower the CS to make regulations, and therefore was improperly invoked. Section 33(4) merely states that applications under section 33 be made to the authority in such form and manner as may be prescribed.

(iv) The regulation making body makes provisions for the exercise of the power of arrest under regulation 37, without invoking the enabling provision under section 46(4) the parent Act.

(v) The regulation making body makes provisions for the exercise of the power of search under regulation 38, without invoking the enabling provision under section 47(5) the parent Act.

(vi) The regulation making body makes provisions for power to record and temporarily withhold identification documents under regulation 39, without invoking the enabling provision under section 48(4) of the parent Act.

2. The foregoing remarks under 1. above makes the regulations defective in drafting contrary to section 13 (h) of the Statutory Instruments Act.
3. Contrary to section 13(j) of the Statutory Instruments Act, there appears to be an unjustifiable delay in the publication of the regulations or laying before Parliament.
 - ✓ Section 47(5) of the parent Act required the CS to make regulations on the power of search **within 3 months of the commencement of the Act**, whose date of commencement was 3rd June, 2016. The latest date by which the regulations should have been made should have been the 3rd of September 2019.

Issues Raised by the Members

1. Inadequate public participation

Members were dissatisfied with the extent and conduct of public participation, consumers and members of the general public were not adequately involved. Collection of the views of the members of the public was only conducted in Nairobi, excluding all other 46 counties.

The regulation making authority claimed to have conducted public participation in all the 47 counties, coordinated by the County Commissioners, but they provided no evidence to that effect.

Members also felt that certain key stakeholders and consumers of the services were excluded.

2. Extension of time of compliance under regulation 17 on registration

Regulation 17 provides for registration within 6 months after commencement of these regulations. Unless amended the period may not change.

3. Regulation 25(5)

The exercise of the powers of a police officer implies the use of firearms by private security providers when working under the command of a police officer. The use of firearms has been prohibited under section 53 of the Parent Act.

Members were of the opinion that the issues addressed in regulation 25(2) would be better addressed in a statute and not the regulation.

4. Regulation 6(4) as read with 10 on election of representatives to the Board.

The regulation violates the principle of universal suffrage by requiring the CS to nominate one person from the three elected representatives.

5. Fidelity Levy under regulation 27

The regulations do not establish the levy. It has been established in the Act under section 60.

Error in drafting of regulation 27 -head says levy, the marginal notes provide for a fund

6. Power of arrest

Members were apprehensive of the possibility of the abuse of this power, especially on detention after arrest. The power of arrest by private security officers is granted under the Parent Act, section 46. This power is exercised by private security officers as private citizens.

The Criminal Procedure Code under section 34 and 35 provides further guidelines on arrests and disposal by private citizens respectively. The Constitution under article 49 provides further on the rights of an arrested person.

7. **Minimum wage**

Regulation 16 (e) makes it a registration requirement to have proof of compliance with the set minimum wages published under the Labour Institutions Act.

Regulation 16 (e) read along SI sec 13(q) of the SI Act allows the members to consider any other matter that the committee finds fit to examine.

8. **Regulation 19 (2) (a)**- inappropriate delegation of powers to the Authority to make guidelines on training facilities.

Recommendations

The Committee noted that the Regulations were beneficial and were intended to give further guidelines for the operation of private security services industry, and to operationalize the provisions of the Private Security Regulation Act, 2016.

The foregoing notwithstanding, it is our considered opinion that the regulations should not be acceded to and approved for operation by the Ministry on grounds that:-


- a. They are not in accord with the provisions of the Constitution, the Act pursuant to which they are made and the Statutory Instruments Act.
- b. The regulations are defective in drafting
- c. There appears to be an unjustifiable delay in its publication or laying before Parliament

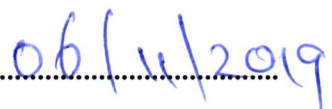
Resolution

The decision to annul the Regulation was proposed by the Hon. Timothy Wanyonyi, MP and seconded by Hon. (Dr.) Wilberforce Oundo, MP.

MIN.NO. /NA/CDL/2019/349 ADJOURNMENT

The meeting was adjourned at 4.35 p.m. to reconvene following day at 10.00 a.m., same venue.

Signed: 

Date: 

HON. GLADYS BOSS SHOLLEI CBS MP

(CHAIRPERSON)

MINUTES OF THE 57TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY 29TH OCTOBER, 2019 AT 10.00 A.M. IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS

PRESENT

1. **The Hon. Gladys Boss Shollei CBS MP** - **Chairperson**
2. **The Hon. Fatuma Gedi, MP** - **Vice Chairperson**
3. The Hon. Robert Mbui, MP
4. The Hon. Waihenya Ndirangu, MP
5. The Hon. Daniel Maanzo, MP
6. The Hon. Kamoti Mwamkale, MP
7. The Hon. Munene Wambugu, MP
8. The Hon. Muriuki Njagagua, MP
9. The Hon. Jennifer Shamalla, MP
10. The Hon. Gideon Mulyungi, MP
11. The Hon. George Murugara, MP
12. The Hon. Sammy Seroney, MP
13. The Hon. Kassait Kamket, MP
14. The Hon. Abdi Koropu Tepo, MP

ABSENT WITH APOLOGY

1. The Hon. Alice Wahome, MP
2. The Hon. Timothy Wanyonyi, MP
3. The Hon. Ronald Tonui, MP
4. The Hon. Patrick Mariru, MP
5. The Hon. (Dr.) Wilberforce Oundo, MP
6. The Hon. Muturi Kigano, MP
7. The Hon. Martha Wangari, MP
8. The Hon. Tindi Mwale, MP

ABSENT

The Hon. Alfred Sambu, MP

IN-ATTENDANCE

SO. 195 Attendance by Non-Committee Member

1. Hon. Geoffrey Osotsi, MP
2. Hon. (Maj.) Bashir Sheikh Abdullahi, MP

National Assembly Secretariat

1. Ms. Susan Maritim - Senior Clerk Assistant
2. Mr. Jimale Mohamed - Second Clerk Assistant
3. Mr. Dima Dima - Principal Legal Counsel
4. Ms. Anne Kigoro - Research and Policy Analyst
5. Mr. Charles Ayari - Superintendent of Electronics (Audio)
6. Mr. Brian Wechabe - Legal Intern
7. Ms. Millicent O. Akhonya - Legal intern
8. Ms. Winnie Kiziah - Media Relations Officer

Ministry of Interior and Coordination of National Government

1. Dr.(Eng.) Karanja Kibicho - Principal Secretary
2. Mr. Fazul Mohammed - CEO, Private Security Regulation Authority
3. Mr. Moffat Mkangi - Secretary, Internal Security
4. Mr. Dan Mwangi - Ministry of Interior
5. Mr. Silvanus Seme - KEPSA

National Industrial Training Authority (NITA)

Helen Odegi

Private Security Associations

1. Mr. Enock Okeyoh - National Chairman, Kenya Private Security Industry Association
2. Mr. Francis Shiyukah - CEO, Kenya Private Security Industry Association
3. Mr. Cosmas Mutava - Chairman, Protective Security Industry Association
4. Mr. Enock Makanga - Chairman, Protective Safety Association of Kenya
5. Mr. Delano Kiilu - CEO, Protective Safety Association of Kenya
6. Annette Kimitei - Seneca World
7. Steve Barry - G4S

Kenya National Private Security Workers' Union

Mr. Isaac GM Andabwa - National General Secretary

Kenya Private Sector Alliance

1. Silvanus Sewe - Chairperson, Security Sector
2. Ms. Magdalene Kariuki - Legislative Officer
3. Mr. Cosmas Mbavu

Institute of Professional Security Studies

Lt. Col.(Rtd) Julius Githiri - Executive Director

MIN.NO. /NA/CDL/2019/333 PRAYER AND PRELIMINARIES

The meeting commenced at 10.15 a.m. with the Prayer by Hon. Sammy Seroney, MP.

MIN.NO. /NA/CDL/2019/334 CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Confirmation of Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. /NA/CDL/2019/335 MEETING WITH VARIOUS STAKEHOLDERS TO CONSIDER THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019

The Chairperson welcomed the various stakeholders represented in the meeting and conducted a round of self-introductions.

Submission by the Joint Private Security Industry Associations

The Ministry of Interior and Coordination of National Government has gazetted the Private Security (General) Regulations, 2019. The Regulations have been prepared with input from various stakeholders, including the Private Security Regulatory Authority (PSRA). The key stakeholders and actors in the private security industry lauded the government for the move, recognizing the order and efficiency that implementation of the Regulations will bring to the industry.

The private security industry supplements the security services offered by the public service organizations. The industry provides a source of livelihood to approximately 500,000 Kenyans who are direct employees attached to an estimated 2,500 security firms.

They raised the following key issues –

Submissions by the Joint Security Industry Association

1. The Joint Security Industry Association appeared before the Committee on 29th October, 2019 led by Mr. Enock Makanga and Mr. Cosmas Mutava. The Association brings together three security industry associations namely the Kenya Security Industry Association (KSIA), the Protective Security Industry Association (PSIA), the Protective & Safety Association of Kenya (PROSAK).
2. The Joint Security Industry Association reiterated that the private security sector from their industry data employs approximately 500,000 security officers who offer security services to industrial, residential and commercial properties both in public and private institutions. Hence, the significance of this sector to the economy cannot not be overstated.
3. The Association applauded the Ministry of Interior and National Coordination for operationalising the Private Security Regulations Act, 2016 by gazetting the Regulations. The Association however took issue with some of the provisions in the Regulations.
4. The **eight key issues** raised by the Association are as follows –
 - i. the **six (6) months compliance period under Regulation 17 is too short** to comply with the stipulated requirements. The Association proposes a minimum of five years transition period to be able to fully comply with the Act.
 - ii. **Regulation 19** provides for the mandatory training of security officers, managers and directors prior to issuance of individual and corporate licences to operate. The Association posits that there is no accredited institution, trainers, assessment criteria and approved curriculum by the PSRA, 2016. It is therefore not feasible to train 500,000 people in 6 months.
 - iii. **inadequate public participation**: The Association alleged that the regulation making authority did not adequately conduct participation in the 47 Counties and in particular with the private security providers.

Regulation 16(e) requires proof of compliance with the set minimum wages. The Association proposes harmonisation of legislation governing labour matters particularly in private security. If the Regulations are effected in the current form, companies would need to pay a salary of Kshs 27,993 for a night guard and Kshs 25,641 for a day guard. A client would therefore be required to charge clients a minimum Kshs 51,000, less administrative costs and other related charges. The Association therefore found the **costs unsustainable in an already burdened**

economic environment. The Association also submitted that even government agencies are yet to comply with minimum wage owing to the unsustainability of the Order.

- iv. **Underrepresentation in the Private Security Authority Board:** The Association opines that the two slots provided in Section 11(1)(vii) of the PSRA, 2016 are not adequate to represent their interests in the 11-member Board.
- v. On the **Private Security Fidelity Fund established by Section 61 of the PSRA, 2016** whose Board of Trustees is established in **Regulation 27**, the Association observed that it needs more positions on the Board and that the use of the funds be clearly defined in accordance with the relevant legislations.
- vi. On the **Licences and Fees stipulated in the Second Schedule of the Regulations**, the Associations found the licences and fees very punitive and restrictive given the unfavourable economic conditions currently prevailing and the fact that the businesses pay many other licences e.g. County Licences, NEMA among others.
- vii. Section 53(a) and (b) of the PSRA, 2016 prohibits the use of firearms by private security service provider. **Regulation 25(5) implies that private security service providers may be armed when exercising the powers of a police officer.** The Association proposes more stakeholder engagement and public participation in view of the fact that private security service providers are the first casualties in case of attack.

Submissions by the National Industrial Training Authority

The National Industrial Training Authority (NITA) informed the Committee that it has been involved in the development of the curricula for private security providers. The Authority also informed the Committee that it is not ready with all the requisite training modules for training of security guards at various levels.

Submissions by the Kenya National Private Security Worker's Union

- (i) The Kenya National Private Security Worker's Union (KNPSWU) led by Mr. Isaac Andabwa, the Union's National General Secretary, informed the Committee that it supports the Regulations as published. The Union is the lead agency which represents the legitimate voice of the guards, formerly known as watchmen.
- (ii) The Union protested the **five-year transition period requested by the private security providers as it would hurt members of the Union** (guards) owing to the low wages and poor working conditions currently being experienced.
- (iii) The Union accused the private security providers of wanting to delay the implementation of the Regulations for their own economic benefit in as far as remuneration of the guards is concerned to benefit the Companies at the expense of the guards' wellbeing. The Union claimed that the subsidiaries of the foreign security providers, namely G4S, Wells Fargo, KK, Ultimate Security and Fidelity Security had already complied with the Regulations in as far as the minimum wage and statutory deductions is concerned. Hence the local companies should follow suit.
- (iv) He further informed the Committee that private security officers are not compensated in case of death in the line of duty.

- (v) The Union emphasized the training of guards to handle detective and deterrent gadgets in different forms of assignments. Guns are not required in all the assignments.

Submission by the Executive Director of the Institute of Professional Security Studies

Lt. Col. (Rtd) Julius Githiri an interested member of the public who is also the Founder and Executive Director of the Institute of Professional Security Studies appeared before the Committee on 29th October, 2019 to present his views. Lt. Col. Githiri reiterated that the Regulations were necessary for the security sector and the process of drafting them has eluded the sector for many years hence welcomed the move by the Ministry to gazette the Regulations.

Committee Observations

The Committee observed THAT –

- 1) On mandatory service training, the Committee was informed that the current curriculum is not adequate to meet the requirements for compliance with the Regulations as published. NITA has currently developed the training manuals for level one and two only.
- 2) On compliance period, the Committee observed that the timeline provided for in the Regulations for full compliance is too short and needs further consultations. If not reviewed, it may lead to unemployment of thousands of private security officers since if companies fail to comply, they risk deregistration and loss of licensing. The Regulations will also have the following impact –
 - (i) Loss of public confidence in the national security structure;
 - (ii) vulnerability to radicalization and violent extremism of affected security workers in case of loss of jobs;
 - (iii) creation of corruption networks in private security as players actively seek and find shortcuts to comply; and
 - (iv) possible loss of tourism across Kenya's hospitality industry.
- 3) On public participation, the Committee was informed that only one stakeholder forum was held at the Kenya School of Government in Nairobi and the public participation conducted therefore was inadequate.
- 4) On matters of labour relations, the Committee observed that the private security officers (guards) are indeed under remunerated.

Submission by Lt. Col. (Rtd) Julius Githiri - Institute of Professional Security Studies (IPSS),

Lt. Col. (Rtd) Julius Githiri an interested member of the public who is also the Founder and Executive Director of the Institute of Professional Security Studies informed the Committee that that the Regulations are necessary for the security sector and the process of drafting them has eluded the sector for many years hence welcomed the move by the Ministry to gazette the Regulations.

The industry is expected to witness robust growth driven by the existing and potential security threats and business security risk perception, in a dynamic security environment. As an independent security training organization, IPSS has the objective of meeting the ever-increasing demand for security certification, standards, education and recognition of those professionals employed in the private security industry. It aims at providing a structured career growth for all those employed in the industry.

IPSS's scope in security certification is broad and includes all persons working in the private security industry within and outside Kenya.

The scope is extended to technology providers, door supervisors, CCTV operators, associations and other non-security professionals/persons external to the private security industry who feel the qualifications available may benefit their employment or personal professional development. The major difficulty being that private security organisations are not publicly accountable and are not subject to the same kind of government and public scrutiny that police forces are subject to.

The employment situation in private security guarding companies is characterized by low pay, long working hours without overtime and annual leave, lack of insurance and social benefits and poor and hazardous working conditions.

Challenges experienced by the private security sector industry –

- (i) Pricing of guarding services due to operational overheads i.e. labour, taxes e.g. VAT, fuel, excise duty etc;
- (ii) Frequent staff turnover;
- (iii) Unstructured training standards, skills and competences;
- (iv) Service Delivery - client expectations not met;
- (v) Cost of recruitment, vetting and background checks;
- (vi) Security Risk Assessment/ Analysis not aligned with service delivery;
- (vii) Cost associated with contract management, supervision and monitoring

He concluded by emphasizing the need for licensing of individuals and corporates providing security related services. It also means that licensing and training courses must be established not only for employees, but also for the management, in-order to develop leadership, governance, compliance and effective management.

**MIN.NO. /NA/CDL/2019/336 MEETING WITH PRINCIPAL SECRETARY FOR
INTERIOR TO CONSIDER THE PRIVATE
SECURITY REGULATIONS, 2019**

Dr. (Eng.) Karanja Kibicho, the Principal Secretary, State Department for Interior appeared before the Committee accompanied by Mr. Fazul Mohammed, Chief Executive Officer of the Private Security Regulation Authority and other officials.

The Principal Secretary informed the Committee that the Private Security (General) Regulations, 2019 were published by the Cabinet Secretary for Ministry of Interior and Coordination of National Government pursuant section 70 of the Private Security Regulations, Act, 2016.

The purpose of the Regulations is to provide the procedure for appointment of members of the Private Security Regulatory Board and provide the procedures, requirements and forms for registration as an individual private security provider.

The Regulations also seek to –

- (i) uphold national security principles by private security providers as stated in the Constitution;
- (ii) ensure that private security is pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms;

- (iii) ensure that the private security industry comes under regulation within reasonable time and of essence is the registration and licensing of all providers within the stipulated timeline; and
- (iv) raise the professional standards of workforce and their welfare within reasonable time.

The Principal Secretary further noted that the Regulations provide for a comprehensive framework for the registration of all private security providers and the regulation of the industry. The development of the Regulations was guided by the values and principals of enshrined in the Constitution.

He informed the Committee that the Ministry in coming up with the Regulations tried as much as possible to incorporate views from all concerned stakeholders and that the Ministry has since the enactment of the Act in March 2016 been setting up the infrastructure and framework for Regulations stipulated under the law.

Stakeholders consulted included the: Private Security Regulatory Authority as stipulated in Section 70 of the PSRA, 2016, The National Security Advisory Council, Industry Employers' Association, The Kenya National Private Security Workers' Union, Corporate Private Security Providers, Individual Private Security Providers, Private Security Services Consumers, Civil Society Organisations and the general public.

The public engagements were conducted by the County Commissioners who are the National Government representatives in the Security and Intelligence Committees. A meeting was also conducted at the Kenya School of Government which, he observed, was inclusive and comprehensive. The PS further stated that the ministry conducted public consultations with key stakeholders such as the Private Security Regulatory Authority, the National Security Advisory Council, industry employers' associations, the Kenya National Private Security Workers Union, corporate private security providers, individual private security providers, private security service consumers, Civil Society Organisations and the general public among others.

The Principal Secretary reiterated that the 6 months compliance timeframe provided in the Regulations can be negotiated with the stakeholders.

Dr. Kibicho also pleaded with the Committee to consider approving the Regulations which will among others, improve the welfare of the approximately 500, 000 guards whose working conditions and remuneration need improving.

The Ministry and the Authority shall monitor the application of the Regulations and submit a quarterly report on its implementation for review.

Committee Observations

The Committee observed THAT –

1. Statutory Timelines

The Regulations were submitted to the National Assembly within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act (hereinafter referred to as the Act) having been published on the 5th of July, 2019 received by the Clerk of the National Assembly on 11th July, 2019 and tabled on the 2019 within the statutory timeline.

2. Consultation / Public participation

Articles 10 and 118 of the Constitution, section 5, 5A and the Schedule to the Act and Standing Order 210 require the regulation –making authority to conduct public participation and sufficient

consultation with the stakeholders and persons likely to be affected by the regulations and evidence to that effect was available. The Committee raised concern regarding the adequacy of public participation.

3. Compliance period

The six months transition period provided for compliance is too short and needs further consultations with various stakeholders.

4. Minimum wage concerns

The requirement for compliance with the minimum wage ought to be further discussed as it is apparent that not even government agencies that have procured private security services are yet to comply with the Minimum Wages Order.

5. Nomination of Members to the Private Security Authority Board

Members were concerned about the delay in appointing Members to the Board and the skewed representation of the private security service providers.

Way forward

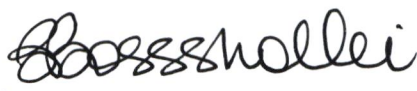
The Committee requested the Ministry of Interior and Coordination of National Government to submit the Regulatory Impact Assessment for consideration not later than Thursday, 31st October, 2019.

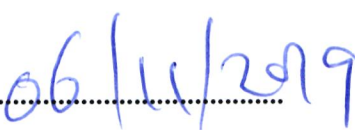
MIN.NO. /NA/CDL/2019/337 ANY OTHER BUSINESS

No other matter arose.

MIN.NO. /NA/CDL/2019/338 ADJOURNMENT

There being no other business, the meeting was adjourned at 1.15 p.m.

Signed: 

Date: 

HON. GLADYS BOSS SHOLLEI CBS MP

(CHAIRPERSON)

OCTOBER 29, 2019

BRIEF TO THE PARLIAMENTARY COMMITTEE ON DELAGATED LEGISLATION ON THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019.

1. The Purpose of Private Security (General) Regulations, 2019.

The purpose of these Regulations is to:

- a) Provide procedure for appointment of members to the Private Security Regulatory Authority Board.
- b) Provide procedure, requirements and statutory forms for registration as an individual private security provider.
- c) Provide procedure, requirements and statutory forms for registration and licensing as a corporate private security provider.
- d) Provide requirements for the employment and training of personnel in the private security industry.
- e) Provide for the requirements for the use of security equipment, tools of trade including uniforms, animals, communication equipment and vehicles.
- f) Provide for the specifications and standards of equipment and facilities used in private security.
- g) Provide the scope and procedure for cooperation between private security industry and national security organs.
- h) Operationalize the Private Security Fidelity Fund, its Board of Trustees, Sources of the funds, uses of the fund and administration of the fund.
- i) Provide rules for the exercise of the power of arrest by a registered private security officer.
- j) Provide rules for the exercise of the power of search by a registered private security officer.
- k) Provide rules for the exercise of the power to record and temporarily withhold identification documents by a registered private security officer
- l) Provide the categories and fees for corporate private security providers.
- m) Provide for the categories and fees for individual private security providers.

2. The Legislative Context

The process of developing the Private Security (General) Regulations, 2019 started in 2018 with the intention of providing a comprehensive framework for the registration of all private security providers and the regulation of the industry.

The development of the Private Security (General) Regulations, 2019 was guided by the following considerations;

- (i) The values and principles enshrined in the Constitution
- (ii) The need to uphold national security principles by private security providers as enshrined in the constitution that entails the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.
- (iii) The need to ensure that private security is pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms.
- (iv) The need to ensure that the private security industry comes under regulation within reasonable time and of essence is the registration and licensing of all providers within the stipulated timeline.
- (v) The need to raise the professional standards of the workforce and their welfare within reasonable time.

These Private Security (General) Regulations, 2019 are firmly anchored in Sections 11, 33,45,51,61 and 70 of the Private Security Regulation Act.

3. Policy Background.

Parliament enacted the Private Security Regulation Act, (No 13 of 2016) in March 2016 and over the past three years the Ministry of Interior and Coordination of National Government has been setting up the infrastructure and framework for regulation as stipulated under the law. The Act on its own, however, is not sufficient since it does not provide procedural details and operational guidelines on all matters relating to private security regulation. In order to provide further the procedures and details on various aspects coming under regulation, it is therefore necessary to have Regulations to provide for the guidelines for industry regulation as required by Sections 11, 33, 45, 51, 61 and 70 of the Private Security Regulation Act.

4. Public Consultations

The Private Security (General) Regulations, 2019 have taken into account the views of key stakeholders such as the Private Security Regulatory Authority, The National Security Advisory Council, Industry Employers' Associations, The Kenya National Private Security Workers' Union, Corporate Private Security Providers, Individual Private Security Providers, Private Security Services Consumers, Civil Society Organizations, the general public among others.

The process of making these regulations has been a very inclusive process where industry players and stakeholders have had a vast input and feedback process through formal channels across the 47 counties and the public participation process as required by law. The public participation process was open for participation through email, ordinary mail, through County Commissioners offices and a public event at the Kenya School of Government.

5. Guidance

The Ministry of Interior and Coordination of National Government and the Private Security Regulatory Authority will sensitize stakeholders including Parliament, private security providers and the general public, on the provisions of the Private Security (General) Regulations 2019 the compliance processes, compliance assistance programs and the need to ensure that users only engage registered and licensed private security providers.

6. Review of the Regulations.

The Ministry of Interior and Coordination of National Government and the Private Security Regulatory Authority shall monitor the application of the Private Security (General) regulations 2019. This will be done through quarterly implementation progress reports sent to the Ministry.

Date: October 28, 2019

Signature: _____



**DR. (ENG.) KARANJA KIBICHO, CBS
PRINCIPAL SECRETARY, INTERIOR AND CITIZENS SERVICES
MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL
GOVERNMENT.**



Delivered

*DLSP
2
11/07*



**OFFICE OF THE PRESIDENT
MINISTRY OF INTERIOR
AND CO-ORDINATION
OF
NATIONAL GOVERNMENT**

Telegraphic address: "Rais"
Telephone: 020-2227411
When replying please quote

P.O. Box 30510- 00100
NAIROBI

Ref. No. OP/PA. 1/40A

10th July 2019

Mr. Michael Sialai, CBS
Clerk of the National Assembly
Parliament Building
NAIROBI

*DLSP
tabling
11/7/19*

*DLSP, Table into
to cause tabling
opposed
11/7/19*

Dear *Mr. Sialai*

**RE: TABLING OF THE FOLLOWING REGULATIONS IN THE HOUSE: -
1. PRIVATE SECURITY (GENERAL) REGULATIONS, 2019**

The Private Security (General) Regulations, 2019 has been published in accordance with the provisions of the Statutory Instruments Act No.23 of 2013.

The purpose of this letter therefore, is to transmit to you the published Private Security (General) Regulations, 2019 as well as request you to facilitate the tabling of the Regulations in the House.

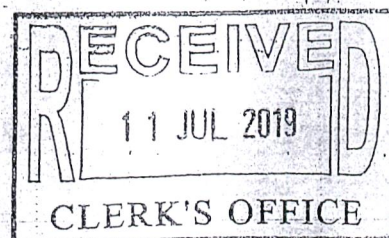
Please find attached herein, an explanatory memorandum to the statutory instrument in the manner prescribed in the Act.

Your prompt attention and action on this matter will be highly appreciated.

Yours *Sincerely,*

**DR. ENG. KARANJA KIBICHO, CBS
PRINCIPAL SECRETARY/INTERIOR**

Ecls.



Copy to: **Dr. Fred Matiang'i, EGH**
Cabinet Secretary
Ministry of Interior and Coordination of National Government
NAIROBI

Hon. Gladys Boss Shollei, CBS
Chairperson
Committee on Delegated Legislation
National Assembly
NAIROBI

EXPLANATORY MEMORANDUM TO THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019

.....

1. The Purpose of Private Security (General) Regulations, 2019.

The purpose of these Regulations is to:

- a) Provide procedure for appointment of members to the Private Security Regulatory Authority Board.
- b) Provide procedure, requirements and forms for registration as an individual private security provider.
- c) Provide procedure, requirements and forms for registration and licensing as a corporate private security provider.
- d) Provide requirements for the employment and training of personnel in the private security industry.
- e) Provide for the requirements for the use of security equipment, tools of trade including uniforms, animals, communication equipment and vehicles.
- f) Provide for the specifications and standards of equipment and facilities used in private security.
- g) Provide the scope and procedure for cooperation between private security and national security organs.
- h) Operationalize the Private Security Fidelity Levy, its Board of Trustees, Sources of the funds, uses of the fund and administration of the fund.
- i) Provide operational procedures for the exercise of the power of arrest by a registered private security officer.
- j) Provide operational procedures for the exercise of the power of search by a registered private security officer.
- k) Provide operational procedure for the exercise of the power to record and temporarily withhold identification documents by a registered private security officer
- l) Provide the categories and fees for corporate private security providers.
- m) Provide for the categories and fees for individual private security providers.

2. The Legislative Context

The process of developing the Private Security (General) Regulations, 2019 started in 2018 to provide for a comprehensive framework for the registration of all private security providers and the regulation of the industry.



The development of the Private Security (General) Regulations, 2019 was guided by the following considerations;

- (i) The values and principles enshrined in the constitution
- (ii) The need to uphold national security principles by private security providers as enshrined in the constitution that entails the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.
- (iii) The need to ensure that private security is pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms.
- (iv) The need to ensure that the private security industry comes under regulation within reasonable time and of essence is the registration and licensing of all providers within the stipulated timeline.
- (v) The need to raise the professional standards of the workforce and their welfare within reasonable time.

These Private Security (General) Regulations, 2019 are firmly anchored in Sections 11(2), 33,45(2),51(2),61(4) and 70 of the Private Security Regulation Act.

3. **Policy Background.**

Parliament enacted the Private Security Regulation Act, (No 13 of 2016) in March 2016 and over the past three years the Ministry of Interior and Coordination of National Government has been setting up the infrastructure and framework for regulation as stipulated under the law.

The Act on its own, however, is not sufficient since it does not provide the details and guidelines on all matters relating to private security regulation. In order to provide further the procedures and details on various aspects coming under regulation, it is therefore necessary to have Regulations to provide for the guidelines for industry regulation as required by Sections 11(2), 33, 45(2), 51(2), 61(4) and 70 of the Private Security Regulation Act.

A professional and standardized private security industry will help in ensuring public safety and security is upheld and improved. The industry is bound by National Security principles under the law in recognition that private security is also a critical player in securing the nation. The frontline role private security plays in national security is a critical one that provides the opportunity to neutralize threats and mitigate risks way before they materialize.

Private security users and consumers also have the right to enjoy services that are professional and provide value for money. They are entitled to delivery of services commensurate to the service agreements they have agreed on. They also need to get the professional protection that they pay for. This professionalism and standardization of service can only be realized through a well regulated environment with adequate enforcement measures in place.

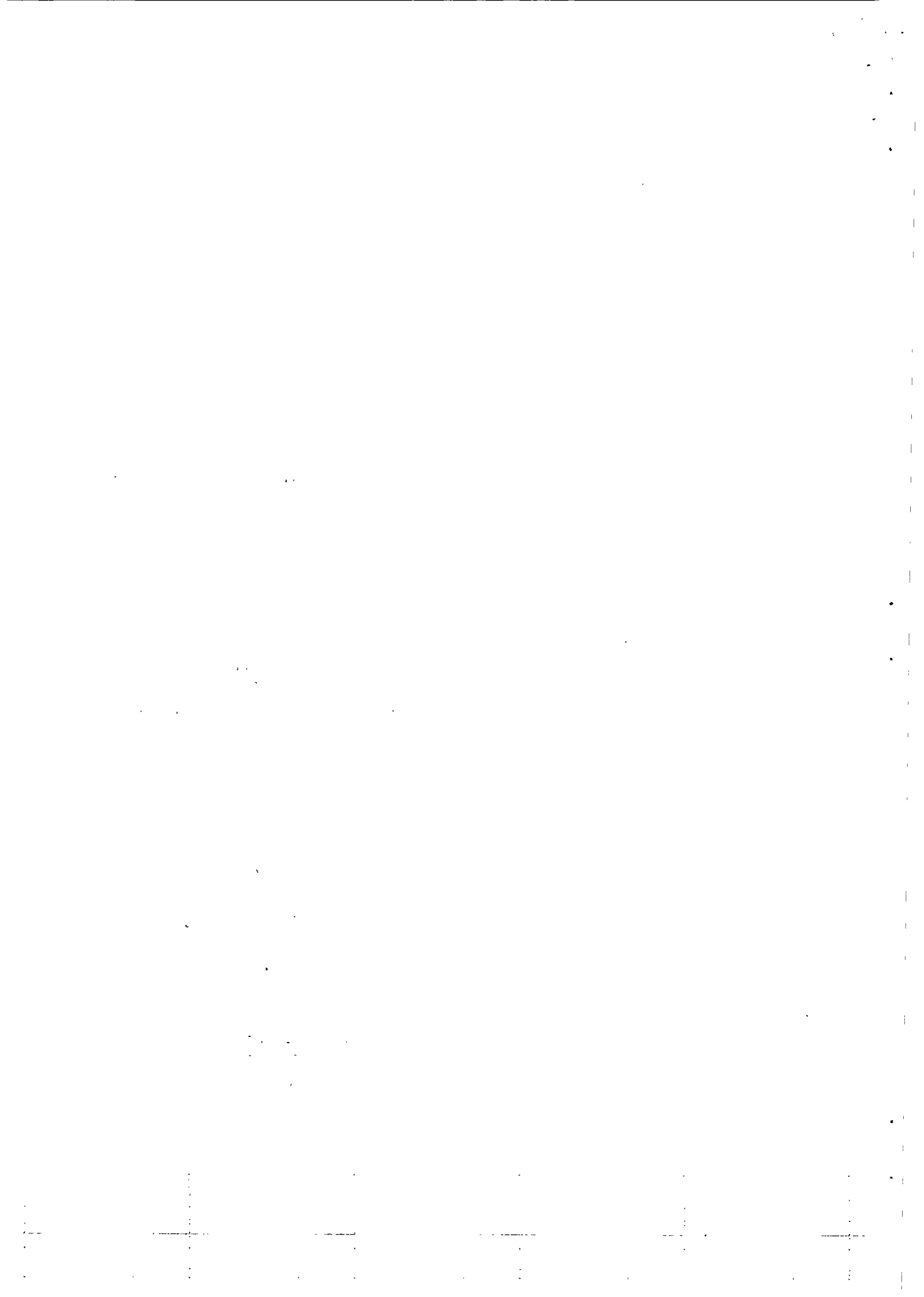
The industry workforce standards and welfare also need to be raised in order for them to effectively play the roles they are required to. Raising standards through proper background checks, training, categorization, registration and annual licensing will ensure the current workforce improves and new entrants into industry are of a higher quality. It will ensure the best are retained and private security actually becomes a viable career path.

Raising the welfare of the industry workforce is also critical. The low wages, poor working conditions and long hours in the industry ensure that service provision are low and the average industry threshold, pride and recognition are also very low. Ensuring compliance with set minimum wage and work conditions will greatly improve the dignity and service of the workforce which eventually will improve Kenya's national security.

It is considered that the provisions of the proposed Private Security (General) Regulations, 2019 will provide guidelines and a framework to assist in the regulation of the private security industry.

Some of the salient features of these regulations are:-

- a) The Regulations are made under Sections 11 (2), 33, 45 (2), 51 (2), 61 (4) and 70 of the Private Security Regulation Act 2016 which give powers to the Cabinet Secretary Interior and Coordination of National Government in consultation with the Authority to make regulations for the proper administration of and giving effect to the Act.
- b) These Regulations shall be cited as "*Private Security (General) Regulations, 2019*".
- c) These Regulations have been divided into eight parts namely:-Part I: Preliminary; Part II: The Procedure for Appointment of Members of the Board; Part III: Application for Registration of Private Security Service Providers; Part IV: Employment and Training of Personnel; Part V: Equipment and Tools of Trade Part VI: Cooperation with National Security Organs; Part VII: Private Security Fidelity Levy; Part VIII General Provisions with First, Second and Third Schedules



- d) The Regulations provide guidelines for registration and licensing of all private security providers with the Authority.
- e) It should also be noted that these Regulations accord the Cabinet Secretary the responsibility and procedure to appoint board members to the Board where he is the appointing Authority.
- f) The Authority shall make decisions on the proper administration and application of the Regulations.
- g) In addition, the Regulation requires the Authority to:
 - Register and licence all private security providers within six months of gazettment of the regulations
 - Undertake training and awareness on its activities for the industry
 - Ensure that consumers of private security only engage the services of registered and licensed private security providers.
- h) Further the Regulations sets out the categories and fees for private security providers.

4. Public Consultations

The Private Security (General) Regulations, 2019 have taken into account the views of key stakeholders such as the Private Security Regulatory Authority, The National Security Advisory Council, Industry Employers' Associations, The Kenya National Private Security Workers' Union, Corporate Private Security Providers, Individual Private Security Providers, Private Security Services Consumers, Civil Society Organizations, the general public among others.

5. Guidance

The Ministry of Interior and Coordination of National Government and the Private Security Regulatory Authority will sensitize stakeholders including Parliament, private security providers and the general public, on the provisions of the Private Security (General) Regulations the compliance processes, compliance assistance programs and the need to ensure that users only engage registered and licensed private security providers.

6. Review of the Regulations.

The Ministry of Interior and Coordination of National Government and the Private Security Regulatory Authority shall monitor the application of the Private Security (General) regulations 2019. This will be done through quarterly reports sent by the Chief Executive officer of the Authority.




It is important to note that the Regulations shall apply from the date of gazettelement.

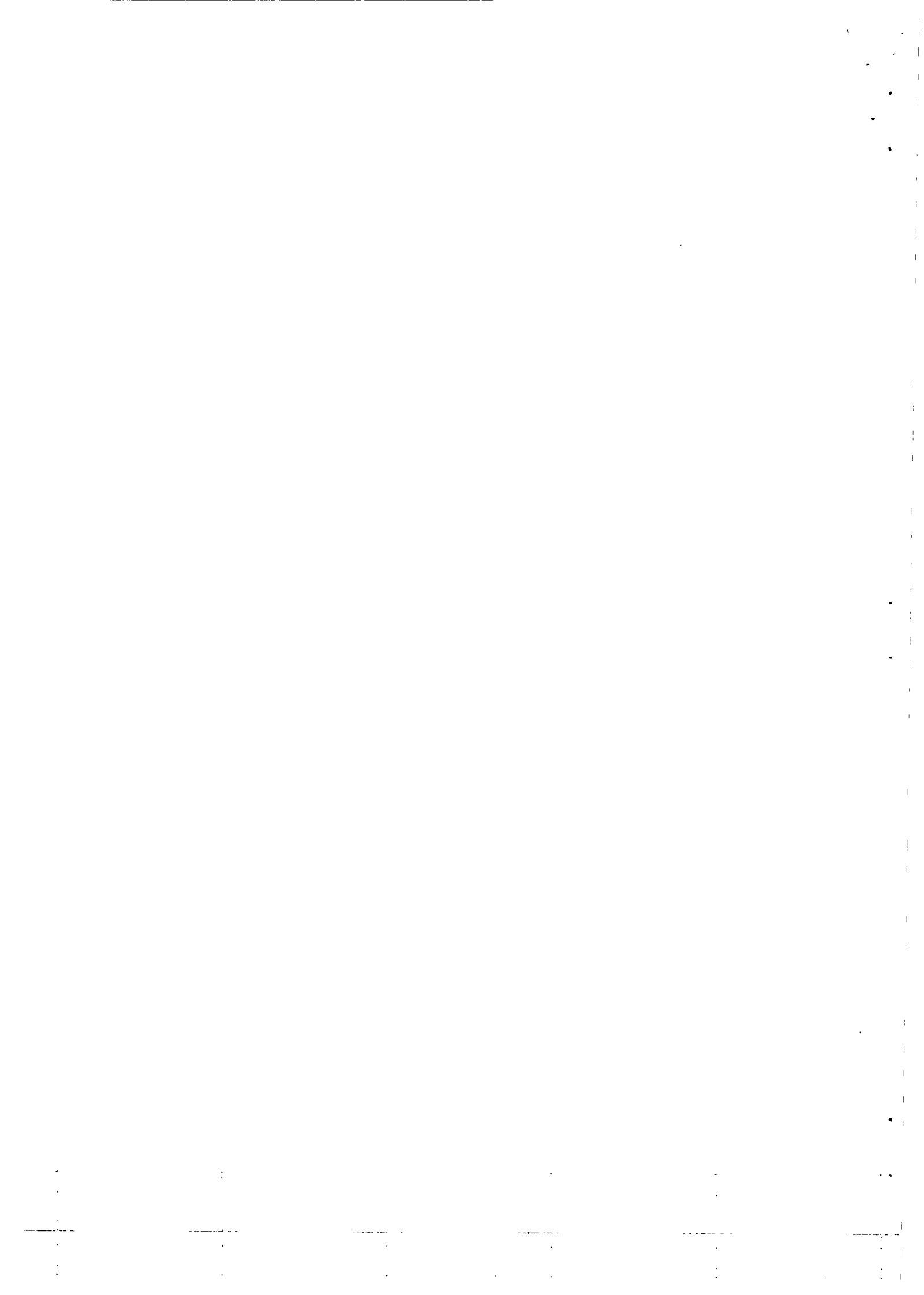
7. **Ministry of Interior and Coordination of National Government Contact Person.**

The contact person at the Ministry is the Cabinet Secretary, Dr. Fred Matiang'i, EGH or the Principal Secretary, Dr.(Eng).Karanja Kibicho, CBS or Private Security Regulatory Authority CEO, Mr. Fazul Mahamed.

Date.....*10th July*.....2019


DR. FRED MATIANG'I, PhD, EGH
CABINET SECRETARY

MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL
GOVERNMENT.



SPECIAL ISSUE

Kenya Gazette Supplement No. 112

517

5th July, 2019

(Legislative Supplement No. 33)

LEGAL NOTICE NO. 108

THE PRIVATE SECURITY REGULATION ACT

(No. 13 of 2016)

THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

1—Citation

2—Interpretation

PART II—PROCEDURE FOR APPOINTMENT OF MEMBERS OF
THE BOARD

3—Formation of associations

4—Associations to maintain a register of members

5—Advertisement of vacancies

6—Election of representatives by associations

7—Nomination of candidates

8—Conduct of elections

9—Procedure to be followed in taking the secret ballot

10—Appointment of elected representatives

11—Appointment of representative of residents association

12—Appointment of nominee by the Kenya Private Sector Alliance

13—Vacation of positions

PART III—APPLICATION FOR REGISTRATION OF PRIVATE
SECURITY SERVICE PROVIDERS

14—Application for registration as an individual private security
service provider

15—Application for registration as a corporate private security
service provider

16—Additional requirements for registration

17—Initial Registration under the Act

PART IV—EMPLOYMENT AND TRAINING OF PERSONNEL

- 18—Requirement to vet employees
- 19—Requirement for mandatory security training

PART V — EQUIPMENT AND TOOLS OF TRADE

- 20—Private security providers uniform
- 21—Private security equipment
- 22—Branding of private security vehicles and other equipment
- 23—Communication tools and systems
- 24—Use of animals in private security services

PART VI—COOPERATION WITH NATIONAL SECURITY ORGANS

- 25—Scope of cooperation
- 26—Cooperation on information sharing

PART VII—PRIVATE SECURITY FIDELITY LEVY

- 27—Board of Trustees for the Private Security Fidelity Fund
- 28—Sources of the Fund
- 29—Administration of the Fund
- 30—Utilization of the Fund
- 31—Monies to be retained in the Fund
- 32—Financial year
- 33—Bank accounts
- 34—Accounts an audit
- 35—Annual report
- 36—Authority to incur expenditure

PART VIII — GENERAL PROVISIONS

- 37—Exercise of the power of arrest
- 38—Exercise of power of search
- 39—Power to record and temporarily withhold identification documents
- 40—Conduct of patrols by private security service provider
- 41—Lavatory facilities

SCHEDULES

FIRST SCHEDULE — Forms

SECOND SCHEDULE — Fees

THIRD SCHEDULE — Specifications and standards for equipment and facilities

THE PRIVATE SECURITY REGULATION ACT

(No. 13 of 2016)

IN EXERCISE of the powers conferred by sections 11 (2), 33, 45 (2), 51 (2), 61(4) and 70 of the Private Security Regulation Act, 2016 the Cabinet Secretary for Interior and Coordination of National Government makes the following Regulations —

THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019

PART I — PRELIMINARY

1. These Regulations may be cited as the Private Security (General) Regulations, 2019. Citation.
2. In these Regulations, unless the context otherwise requires — Interpretation.
- “Act” means the Private Security Regulation Act, 2016;
- “Authority” means the Private Security Regulatory Authority established under section 7 of the Act; No. 13 of 2016.
- “large scale employee association” means an organization of employees of large scale private security firms;
- “large scale private security firm” means a private security firm whose membership exceeds three thousand employees;
- “small scale employee association” means an organization of employees of small scale private security firms; and
- “small scale private security firm” means a private security firm whose membership does not exceed three thousand employees.

PART II — PROCEDURE FOR APPOINTMENT OF MEMBERS OF THE BOARD

3. (1) Pursuant to section 11 of the Act, two or more private security firms or two or more private security service providers may form an association. Formation of Associations.
- (2) Each association shall regulate the affairs of its members in accordance with its rules and regulations.
4. (1) Every registered association representing employees and every association representing private security firms shall keep a register of its members, in which shall be entered— Associations to maintain a register of members.
- the name, address and occupation of the members, in the case of individual members;
 - the name and physical address of the registered office, in the case of body corporate members;
 - the date on which each member was admitted to membership;
 - the payments made by each member in respect of entrance fee, monthly subscriptions or any other matter and the dates of such payments; and

(e) the date on which any member ceases to be a member.

(2) Every association shall submit its register to the Authority for verification before an election is conducted.

(3) An association that fails to keep a register of its members in accordance with paragraph (1), shall not be eligible for election.

5. Whenever a vacancy occurs in the membership of the Board relating to the members specified under section 11 (1) (b) (vi), (vii), (viii) and (ix) of the Act, the Cabinet Secretary shall, by advertisement in at least one local daily newspaper of national circulation, invite applications from persons who qualify for appointment under section 11 of the Act.

Advertisement of vacancies.

6. (1) Within seven days of the advertisement under regulation 4, an association shall notify its members of the —

Election of representatives by associations.

(a) existence of the vacancy;

(b) date of election which shall not be later than twenty-one days from the date of notification.

(2) An association participating in an election shall —

(a) appoint an independent person, called a scrutineer, to manage the handling of ballots and prepare a report on the election results;

(b) only publish the result of the election after it has received a report from the scrutineer and Authority.

(3) The membership of associations shall be divided into the following categories which shall be the electoral constituencies for purposes of elections under these Regulations —

(a) small scale employee associations;

(b) large scale employee associations;

(c) small scale private security firms; and

(d) large scale private security firms.

(4) A voter shall vote for three candidates in every constituency to which the voter is entitled to vote and the Cabinet Secretary shall appoint a representative in accordance with regulation 10.

7. (1) A person shall be eligible for election as a representative if the person is supported by at least —

Nomination of candidates.

(a) one hundred registered members, in the case of a representative of a small association;

(b) one hundred registered members, in the case of a representative of a large association;

(c) five registered members, in the case of a representative of large private security firms; or

(d) twenty registered members, in the case of a representative of small private security firms.

(2) The nomination form shall be as prescribed in Form PSR 1 set out in the First Schedule.

(3) Every association shall notify its members on the date of collection and return of the nomination forms.

(4) Upon receipt of all nomination forms, an association shall prepare ballot papers and submit the papers to the persons conducting the elections on the election day.

(5) A person shall not be eligible for election unless the person—

- (a) is an employee of the rank of a supervisor of a small private security firm, in the case of a representative of a small association;
- (b) is an employee of the rank of a supervisor of a large private security firm, in the case of a representative of a large association;
- (c) is a small private security firm, with its registered office within Kenya, in the case of a representative of a small private security firm; or
- (d) is a large private security firm, with its registered office within Kenya, in the case of a representative of a large private security firm.

(6) A natural person standing for election under these Regulations shall—

- (a) be registered with the Authority as a private security service provider;
- (b) not have a criminal record;
- (c) meet the requirements of Chapter Six of the Constitution.

8. (1) The associations referred to under regulation 6 shall be responsible for their respective elections and shall ensure that—

Conduct of elections.

- (a) the elections are open for every member willing to vie or vote;
- (b) the representatives of employee organizations are employees of registered private security firms without ownership rights; and
- (c) the representatives of the registered private security firms are persons with ownership rights.

(2) No person shall be eligible to vote in an association if the person has not paid their membership entrance fee or has more than one year's arrears of the monthly subscriptions.

(3) For the avoidance of doubt—

- (a) every member, whether body corporate or natural person shall have one vote and shall be accorded equal voting rights;

- (b) only members who are natural persons shall elect representatives of employee associations; and
 - (c) only registered private security firms shall elect representatives of private security firms.
- (4) The Authority shall have oversight powers and may intervene in any manner necessary to ensure effective conduct of the elections.

9. (1) The ballot shall be conducted jointly by an officer of the association, the scrutineer and a representative chosen by the members, if the members elect to have a representative.

Procedure to be followed in taking the secret ballot.

(2) Each association shall furnish the persons responsible for conducting the ballot with—

- (a) a list of eligible voters;
 - (b) an adequate supply of ballot papers as set out in Form PSR 2 in the First Schedule; and
 - (c) a ballot box fitted with lock and key.
- (3) The names of all candidates in the election shall be printed on the ballot paper or sent to every voter on a separate piece of paper along with the ballot paper.
- (4) A person responsible for conducting elections shall not vie for any post and shall make arrangements to enable —
- (a) an eligible voter who may not be able to attend the poll on the election day, to vote in advance by post or by proxy using Form PSR 3 in the First Schedule;
 - (b) every eligible voter, at a place adjacent to the ballot box, to obtain a ballot paper, mark and fold it, and deposit it in the ballot box; and
 - (c) every eligible voter to vote without interference from the association, its officials or other members.
- (5) The name of each member to whom a ballot paper is issued, or proxy form received, shall be marked off on the list of members by the person handing out the ballot papers.
- (6) The persons conducting the elections shall —
- (a) examine the ballot papers;
 - (b) count the valid votes; and
 - (c) jointly sign the certificates for the results of the ballot set out in the Form PSR 4 in the First Schedule.
- (7) The signed copy of the certificate shall be posted in the registered office of the association and in every branch office for a period of not less than one week after the conclusion of the secret ballot.
- (8) The cost of conducting an election shall be borne by the respective associations.

10. After the expiry of seven days from the date of elections, an association shall submit the election results to the Cabinet Secretary who shall appoint one person from the three members elected for each constituency, to be members of the Board as provided under section 11 (1) (b) (vi) and (vii) of the Act.

Appointment of elected representatives.

11. (1) Within twenty-eight days of issuance of the advertisement under regulation 5, every registered residents association intending to nominate a person for appointment in the Board shall submit to the Cabinet Secretary the name and particulars of the nominee in Form PSR 5 in the First Schedule.

Appointment of representative of residents association.

(2) Upon lapse of the twenty-eight days specified in paragraph (1), the Cabinet Secretary shall appoint one of the nominees to represent the interests of residents in the Board.

12. (1) Within twenty-eight days of issuance of the advert under regulation 5, the Kenya Private Sector Alliance shall nominate three persons for appointment in the Board in Form PSR 6 in the First Schedule.

Appointment of nominee by the Kenya Private Sector Alliance.

(2) Upon lapse of the twenty-eight days specified in paragraph (1), the Cabinet Secretary shall appoint one of the nominees to represent the interests of the private sector.

13. (1) All positions in the Board under section 11 (1) (b) (vi), (vii), (viii) and (ix) of the Act shall fall vacant upon gazette of these Regulations and shall be filled in accordance with these Regulations.

Vacation of Positions.

(2) A member of the Board who vacates office under paragraph (1) shall be deemed to have served one term.

PART III— APPLICATION FOR REGISTRATION AS PRIVATE SECURITY SERVICE PROVIDERS

14. (1) An application for registration or renewal of registration as an individual private security service provider under Part III of the Act shall be in Form PSR 7 in the First Schedule.

Application for registration as an individual private security service provider.

(2) The fees payable under section 29 (1) of the Act shall be as set out in the Second Schedule.

15. (1) An application for registration or renewal of registration as a corporate private security service provider under Part IV of the Act shall be in Form PSR 8 in the First Schedule.

Application for registration as a corporate private security service provider.

(2) The fees payable under section 29 (1) of the Act shall be as set out in the Second Schedule.

16. An application for registration under the Act shall be accompanied by —

Additional requirements for registration.

- (a) a copy of the national identity card or valid passport of the person, in the case of individuals;
- (b) a copy of the certificate of incorporation or other formal registration document of the firm, in the case of firms;

- (c) valid tax compliance certificate;
- (d) audited accounts of the firm or six months bank statements in case of individuals;
- (e) proof of compliance with—
 - (i) the set minimum wages published under the Labour Institutions Act; and
 - (ii) all statutory deductions;
- (f) a copy of the insurance policy for the firm;
- (g) a certificate of good conduct for every director, partner, trustee, administrator and management staff;
- (h) a private security training certificate for every director, partner, trustee, administrator and management staff;
- (i) two passport sized photographs for every director, partner, trustee, administrator and management staff;
- (j) a clear and complete set of fingerprints for every director, partner, trustee, administrator and management staff; No. 12 of 2007
- (k) a list of all security equipment and tools of trade;
- (l) one sample set of uniform accompanied by a full photograph of a guard in uniform;
- (m) three clear (front, back and side) photographs of a branded vehicle, if any;
- (n) a copy of the firm's human resource policy including details of the duties and salary structure of employees;
- (o) a certificate of compliance for safe handling, care and use of animals issued by a certified veterinary surgeon;
- (p) a licence issued by the Communications Authority of Kenya for the use of any communication equipment ; and
- (q) any other information that the Board may specify.

17. For the purposes of initial registration under the Act, all private security service providers shall be required to register with the Authority within six months after the gazettement of these Regulations.

Initial
Registration under
the Act.

PART IV—EMPLOYMENT AND TRAINING OF PERSONNEL

18. (1) A private security service provider shall carry out a vetting exercise to authenticate a prospective employees' security training, employment history, character, residence and any other relevant information.

Requirement to
vet employees.

(2) A person seeking employment as a private security service provider shall provide the following documents when submitting his application for employment —

- (a) security training certification;
- (b) accurate employment history;
- (c) names and contacts of three referees not related to him or her, one of whom shall be engaged in security work or is a security trainer; and
- (d) residential physical address including street name, estate and house number supported by evidence of a utility bill, rent payment receipt or lease agreement.

(3) Subject to section 9 (o) of the Act, every private security user, prospective user, or representative of a user shall ensure that any private security service provider in their service is registered with the Authority.

(4) A person who procures the services of a private security service provider who is not registered with the Authority commits an offence.

(5) A private security service provider shall keep a record of information furnished by the person seeking to be employed as private security personnel and —

- (a) may at any time verify the correctness of the information; or
- (b) submit it to the Authority upon demand.

(6) A person who submits false information for anything required under the Act commits an offence.

19. (1) Every employer shall ensure that every person employed as a private security provider—

Requirement for mandatory security training.

- (a) has a valid certificate of security training issued by the Authority;
- (b) undergoes an annual mandatory security training at an institution licensed by the Authority; and
- (c) undergoes an annual mandatory security training assessment at an institution licensed by the Authority.

(2) Every employer under subsection (1) shall have —

- (a) within its business premises, a training facility of the size and layout set out in Guidelines as prescribed by the Authority; and
- (b) a designated training officer.

(3) Notwithstanding paragraph (2), an employer who does not have a training facility shall provide evidence of partnership with a licensed training institution.

(4) Every director, partner, trustee, administrator, management staff and employee of a private security provider shall be required to undergo such training within six months after gazettelement of these Regulations as shall be prescribed by the Authority.

(5) Subject to section 9 (j) of the Act, the Authority shall prescribe a standard curriculum and assessment standards for private security training which shall be undertaken at every training institution.

(6) The Authority shall have supervisory powers over security training and assessment of persons employed in the private security industry.

PART V — EQUIPMENT AND TOOLS OF TRADE

20. (1) Subject to section 51 (1) (a) of the Act, a private security service provider shall adopt a distinct garment as its uniform which shall be suitable for the nature and circumstances for which the security service is rendered.

Private security providers uniform.

(2) The uniform shall consist of—

- (a) body gear comprising of suits, trousers, skirts, shirts, polo-shirts, jackets and sweaters of suitable fabric and purpose customized-features;
- (b) footwear comprising of leather boots;
- (c) head gear fitted with an insignia inscribed with such words as shall be determined by the Authority;
- (d) a heavy-duty belt capable of safely holding security equipment; and
- (e) appropriate maternity wear for pregnant private security officers.

(3) The top and lower gear of the uniform shall consist of colours of the private security provider's choice as approved by the Authority:

Provided that the uniforms of the provider shall not be similar to any of the uniforms worn by any disciplined forces or any national security organ in Kenya.

(4) On the top front part of the uniform shall be fitted a badge with a legibly printed insignia containing the words "PRIVATE SECURITY" and a company patch containing the company's name.

(5) On the top back part of the uniform shall be imprinted the word "SECURITY" in legible characters.

(6) An officer on duty shall wear a legibly written name plate containing his name and registration number issued by the Authority.

(7) Nothing in these Regulations prevents a private security service provider from providing to its employees, special duty security clothing materials including —

- (a) fire resistant clothing;
- (b) water resistant clothing;
- (c) visibility reflective vests; or

(d) any other form of safety clothing.

(8) The Authority shall from time to time inspect the uniforms used by a private security service provider.

(9) Where a private security service provider is engaged in any other business other than private security services, such provider shall have a separate and distinct uniform, for its private security officers.

(10) A private security service provider whose uniform does not comply with these Regulations shall, within six months coming into force of these Regulations, replace the uniform.

21. (1) The following are the equipment and tools approved by the Authority for use by private security service providers —

Private security equipment.

- (a) security alarm system;
- (b) safe, vault or secured container;
- (c) satellite tracking device, closed circuit television or other electronic monitoring device or surveillance equipment;
- (d) device used for intrusion detection, access control, bomb detection, fire detection, metal detection, x-ray inspection or for securing telephone communications;
- (e) specialized device to open, close or engage locking mechanisms;
- (f) specialized device to reproduce or duplicate keys or other objects to unlock, close or engage locking mechanisms;
- (g) fire-fighting equipment;
- (h) patrol cars;
- (i) armored cash and valuables-transit vehicles; and
- (j) any other equipment as may from time to time be authorised by the Authority.

(2) Every private security service provider shall furnish the Authority with a list of all the equipment at its disposal—

- (a) at the time of registration; and
- (b) upon acquisition of new equipment.

(3) All equipment used by private security service providers shall be subject to inspection by the Authority.

(4) All equipment requiring calibration shall be calibrated and certified at least once a year at an institution licensed by the Authority.

(5) A private security service provider who permits the use or uses equipment that requires calibration without a valid calibration certificate issued by an institution licensed by the Authority, commits an offence.

(6) A private security officer on duty may be provided with the following—

- (a) suitable clothing in accordance with regulation 20;
- (b) flashlight;
- (c) defence equipment including baton and pepper spray;
- (d) notepad and pen;
- (e) mobile phone;
- (f) digital camera or other recording equipment; and
- (g) two-way radio.

(7) Where a private security service provider is engaged in any other business other than private security services, such provider shall have separate and distinct equipment, for its private security officers.

(8) The specifications and standards set out under the Third Schedule shall apply to the—

- (a) Control Room and Central Alarm Monitoring Stations (CAMS);
- (b) vaults and vaulting areas;
- (c) armored vehicles;
- (d) rapid response cars;
- (e) vehicle sirens and warning lights;
- (f) distribution and installation security equipment;
- (g) tele-protection; and
- (h) contingency fittings.

(9) A private security service provider intending to acquire or dispose of any of the equipment listed under paragraphs (1) and (8) shall seek approval from the Authority before the acquisition and disposal.

22. (1) A private security service provider may brand its vehicles, equipment and buildings subject to section 51 (1) (b) of the Act.

(2) No person shall brand a vehicle, equipment or buildings using the words “police”, “public law enforcement” or similar phrases.

(3) Where a private security service provider is engaged in any other business other than private security services, it shall have separate and distinct vehicles, for its private security services.

(4) Any person who contravenes this regulation commits an offence.

Branding of private security vehicles and other equipment.

23. (1) A private security service provider shall not use or install— Communication tools and systems.

- (a) communication tools or systems capable of interfering with a communication system used by any disciplined forces or national security organ in Kenya;
- (b) equipment that is capable of intercepting or otherwise interfering with another person's communication;
- (c) equipment that has hazardous effects on the environment or on the health of the people that are in contact with it;
- (d) any equipment that does not comply with the international standards on security and protection; or
- (e) such other equipment as the Authority may from time to time prescribe.

(2) A private security service provider intending to install its own security communication system or security software application shall apply for a licence in Form PSR 9 or Form PSR 10 in the First Schedule as the case may be.

(3) A person who contravenes this regulation commits an offence.

24. (1) The Authority may authorize a private security service provider, to use trained animals in carrying out private security services, if the Authority is satisfied that the animals — Use of animals in private security services.

- (a) have been sufficiently trained by a licensed training institution for the security work for which the animals are employed;
- (b) are capable of obeying the commands; and
- (c) are handled by competent persons trained for that purpose.

(2) A private security service provider who handles animals shall ensure regular treatment and vaccination of the animals by a qualified veterinary officer.

(3) A private security service provider who handles animals shall furnish the Authority with the health record and husbandry welfare report of each animal from a licensed veterinary officer.

- (4) An animal may be used in private security services for—
- (a) detection purposes;
 - (b) control of crowds;
 - (c) patrol and pursuit; or
 - (d) protection and guarding.

(5) A private security service provider shall not use an animal for the purposes of security work if the animal—

- (b) has been trained to kill or seriously injure people and other animals; or

- (c) has been diagnosed with an illness of any kind.
- (6) An animal used for private security services shall —
 - (a) be uniquely identified by an identity tag;;
 - (b) be accompanied by and be under the control of a trained person;
 - (c) while on duty and in public, wear a harness branded “SECURITY” for easy identification security animal; and
 - (d) be transported in a vehicle that has a separate cage for each animal as approved by a certified veterinary surgeon.
- (7) A private security service provider shall keep records of the following particulars in respect of the animal—
 - (a) name;
 - (b) breed;
 - (c) date of birth;
 - (d) identifying marks and characteristics;
 - (e) training and certification for the security work; and
 - (f) training and certification of the security officer or security guard handling the animal; and
 - (g) health records for each animal from every visit to a licensed veterinary.
- (8) A private security service provider handling an animal shall feed, care and protect the animal from cruelty.
- (9) A person who contravenes this regulation commits an offence.

PART VI—COOPERATION WITH NATIONAL SECURITY ORGANS

25. (1) With the approval of the National Security Council and pursuant to its mandate under Article 240 (6) (a) of the Constitution, a national security organ, the Inspector-General of the National Police Service or the Cabinet Secretary may, in accordance with section 45 of the Act, require a private security service provider to cooperate for purposes of—

Scope of
cooperation.

- (a) maintenance of law and order;
- (b) preventing or mitigating a national disaster;
- (c) incident planning;
- (d) sharing security information; and
- (e) sharing expertise and training.
- (2) A request for cooperation under paragraph (1) shall—
 - (a) be in writing and may entail calling and stationing the private security service providers for such duty in any place and for such period as it may be considered necessary;

(b) specify in exact terms the nature, extent and limits of the cooperation; and

(c) state the name of the commanding officer who shall be a senior police officer or a person of similar rank from a disciplined force or service.

(3) The commanding officer specified under paragraph (2) (c) shall be in charge of the operations during the period of cooperation and every private security officer participating in the exercise shall be under duty to obey all the commands.

(4) The entity that requires cooperation with a private security service provider pursuant to paragraph (1) may facilitate any form of training necessary for the assignment.

(5) Whenever a private security officer is acting under the command of an officer of the National Police Service, such officer shall, subject to any limitations imposed under paragraph (2), exercise the powers of a police officer and shall be subject to disciplinary actions applicable to a police officer of the rank of a constable.

(6) Whenever deployed pursuant to this regulation, a private security service provider may be facilitated with transport and shall be paid daily allowances as may be determined by the Cabinet Secretary.

(7) Upon completion of any duty to which a private security service provider is engaged under this regulation, the commanding officer shall in writing discharge the private security service provider.

(8) Every person engaged under this regulation shall remain in the employment of the private security service provider and shall not be eligible for any other benefits.

26. (1) A private security service provider shall be under duty to share with the National Police Service all information that it obtains in the course of duty which reasonably appears important for purposes of

Cooperation on information sharing.

- (a) preventing the commission of a crime;
- (b) apprehending a person suspected to have committed a crime;
- (c) mitigating or eliminating any form of security threat;
- (d) sharing actionable intelligence or serious incident reports; or
- (e) any other lawful purpose.

(2) A private security service provider shall at all times ensure that any information relating to security is —

- (a) kept confidential and safe; and
- (b) accessible on demand at least six months after obtaining the information.

(3) Despite paragraphs (1) and (2), whenever it appears to any national security organ, the National Police Service, the Cabinet

Secretary or other law enforcement agency that information held by a private security service provider is necessary for the maintenance of law and order, the relevant agency may, in writing through the Authority, request for such information.

(4) Upon receipt of the request under paragraph (1), the Authority shall transmit the request to the relevant private security service provider and require that the requested information be provided within a specified time.

(5) A private security service provider shall comply with the request and may for that purpose—

- (a) avail any records containing the required information at its disposal;
- (b) facilitate the decoding of any information contained in security technology whether net-worked or standalone;
- (c) cause the recording of statements by any employee, with the relevant agencies; or
- (d) cooperate in any manner requested.

(6) Where there are any gaps in the information provided, the requesting agency may seek additional information from the private security service provider.

PART VII—PRIVATE SECURITY FIDELITY LEVY

27. (1) Pursuant to section 61 (1) of the Act, the Cabinet Secretary appoints the following members of the Board of Trustees for the Private Security Fidelity Fund—

- (a) the Principal Secretary in the Ministry responsible for matters relating to internal security, who shall be the chairperson;
- (b) the Principal Secretary responsible for matters relating to finance;
- (c) one other person who shall be a registered private security provider of not less than ten years' practical experience in the private security industry; and
- (d) the Director of the Board as an *ex-officio* member.

(2) The Board shall be an incorporated body responsible to the Cabinet Secretary for directing and managing the Fund.

(3) A member of the Board of the Fund specified in paragraph (1) (c) shall be part time and shall serve for a term of three years and shall be eligible for reappointment for one further term.

(4) For purposes of section 24 of the Public Finance Management Act, the Director of the Board shall be the administrator of the Fund and shall ensure that money held in the Fund, including any earnings or accruals, is spent only for the purposes for which the fund is established.

Board of Trustees
for the Private
Security Fidelity
Fund.

No. 18 of 2012

- (5) Members of the Board of the Fund may be paid such allowance as the Cabinet Secretary may approve.
28. There shall be paid into the Fund —
- Sources of the Fund.
- (a) the levy contemplated under section 61 (2) (a) of the Act;
- (b) ten percent of fees charged under section 25 (c) of the Act; and
- (c) money lawfully accruing to the Fund.
29. The Administrator of the Fund shall —
- Administration of the Fund.
- (a) in the management of the Fund, ensure compliance with the Public Finance Management Act; and
- No. 18 of 2012
- (b) be responsible for the effective, efficient and economic use of the Fund.
30. The Fund shall be used —
- Utilization of the Fund.
- (a) to defray the administrative and operational expenses of the Authority;
- (b) for organizing training workshops and seminars for private security providers; and
- (c) for ensuring full implementation of the Act.
31. All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund and applied in accordance with the Constitution, the Act and these Regulations.
- Monies to be retained in the Fund.
32. The financial year of the Fund shall be the period of twelve months ending on the thirtieth June each year.
- Financial year.
33. The Administrator of the Fund shall open and maintain such bank accounts as are necessary for the effective management of the Fund.
- Bank accounts.
34. (1) The Administrator of the Fund shall —
- Accounts and audit.
- (a) keep or cause to be kept proper books of accounts and other books and records related to the Fund; and
- (b) prepare, sign and transmit to the Auditor-General accounts of the Fund in accordance with Public Audit Act.
- (2) Within a period of three months from the end of each financial year, the Administrator of the Fund shall submit to the Auditor General the accounts of the Fund.
- (3) The accounts of the Fund shall be audited and reported upon in accordance with the Public Audit Act.
- No. 12 of 2015
No. 12 of 2015
35. (1) The Administrator of the Fund shall, within three months after the end of each financial year, prepare and submit to the National Assembly a report of the operations of the Fund for the immediate preceding year.
- Annual report.

(2) The Administrator of the Fund shall forward a copy of the report to the Cabinet Secretary.

36. (1) The Administrator of the Fund may, in writing, delegate to an officer or a member of staff of the Authority the powers or functions of an Accounting Officer in accordance with the Public Finance Management Act for the efficient management of the Fund.

Authority to incur expenditure.

No. 18 of 2012

(2) The authority to incur expenditure shall be accompanied by guidelines on its usage.

PART VIII— GENERAL PROVISIONS

37. (1) Pursuant to section 46 of the Act, a private service security provider may arrest a person who is suspected to have committed an offence and immediately hand over the person to the nearest police station or post.

Exercise of the power of arrest.

(2) A private security service provider shall as far as is reasonably possible, use non-violent means in arresting any suspected offender and may only employ force —

- (a) when non-violent measures have failed; or
- (b) to prevent escape.

(3) The force used shall be proportional to the objective sought to be achieved, the seriousness of the offence and the resistance of the person against whom it is used.

(4) A private security service provider who uses any form of force shall immediately, report to the police station or post, explaining the circumstances that necessitated the use of force and the police officer shall record that report.

(5) Nothing in this regulation precludes any legal measures from being taken against a private security service provider whose action leads to harm or injury.

(6) A private security service provider shall not tamper or otherwise damage any evidence from the scene of the act.

(7) Upon arrest of a suspected offender, a private security service provider shall—

- (a) seek reinforcement from a fellow private security service provider or a police officer;
- (b) accompany the arrested person to the nearest police station or post together with any material that may be connected with the arrest;
- (c) hand over an arrested person to the police officer in charge of a police station or post; and
- (d) record and sign a statement explaining the circumstances and reasons for the arrest.

(8) A private security service provider may under no circumstances detain an arrested person in any facility other than a police lock-up facility.

(9) A private security service provider who effects an arrest shall be under duty to cooperate with a police officer in the investigation of the offence and where necessary, in adducing evidence in a court of law.

(10) In addition to the statement recorded at the police station or post, a private security service provider shall make a detailed report to his employer in accordance with in-house incidence management procedures.

38. (1) Pursuant to section 47 of the Act, a private security service provider may search a person on entry or exit of a building or property without warrant.

Exercise of
power of
search.

(2) For purposes of this regulation, search includes personal body search, bag search or vehicle search.

(3) A search under paragraph (1) may be physical or machine assisted and may take the form of—

- (a) daily routine;
- (b) intelligence search based on some pre-known information; or
- (c) random check.

(4) A search by a private security service provider shall be conducted with dignity and decorum as follows—

- (a) the person upon whom a search is intended to be conducted shall be requested for their permission to search and where the permission is not forthcoming, entry into the premises shall be denied;
- (b) the person to be searched shall be requested to display the contents in their pockets, bags or vehicle;
- (c) every search shall be conducted in the presence of at least two officers;
- (d) a body search involving touching of the person shall be conducted by an officer of the same sex.

(5) Whenever a prohibited item is found, the private security service provider shall—

- (a) contact the supervisor and management;
- (b) confiscate the item and place it in a lockable compartment;
- (c) call the police if necessary; and
- (d) prepare an incident report.

(6) A private security service provider shall prominently display a sign at the entrance of any premises to indicate the search area.

(7) A private security service provider shall have the power to search any property left unattended in suspicious circumstances.

39. (1) Pursuant to section 48 of the Act, a private security service provider may —

- (a) require a person visiting any premises to provide proof of identification; and
- (b) record or copy the details in the identification documents; or
- (c) temporarily retain the identification documents.

Power to record and temporarily withhold identification documents.

(2) Any information collected in the course of identification of entrants in any premises shall be kept confidential and shall not be—

- (a) shared with any other person; or
- (b) used for any other purpose other than identification.

(3) Notwithstanding subregulation (2), a private security service provider may share information with another private security provider if that information promotes public safety and security.

(4) A private security service provider shall destroy all information that is no longer required for purposes of their work.

40. (1) A private security service provider intending to conduct patrol or response services in any area shall notify the Authority in writing about the—

- (a) specific geographical area where the patrol or response services are to be offered;
- (b) targeted premises, if any; and
- (c) the number of officers involved in the patrol or response exercise.

Conduct of patrols by private security service provider.

(2) The Authority shall transmit the information specified in paragraph (1) to the National Police Service officer in charge of the relevant police division.

41. A private security service provider shall ensure access to toilet and washing facilities to all its employees whenever such employees are on duty.

Lavatory facilities.

FIRST SCHEDULE

FORM PSR 1

(r 7(2))

FORM PSR 1: ELECTION NOMINATION FORM

NOMINATION FOR:

Representative from registered associations representing employee organisations

Representative from registered associations representing private security firms.

(Tick that which is applicable. Note: only one position per candidate)

NAME:

(surname)

(middle name)

(first name)

NATIONAL ID:.....

NAME OF REPRESENTATIVE ASSOCIATION:.....

MEMBERSHIP ID IN THE REPRESENTATIVE ASSOCIATION:.....

REGISTERED RESIDENTIAL ADDRESS:.....

CURRENT POSITION & PLACE OF WORK:

.....

PROFESSIONAL QUALIFICATIONS:

.....

.....

.....

PREVIOUS GOVERNANCE EXPERIENCE (IF ANY):

.....

.....

.....

COLLEGE-RELATED & OTHER PROFESSIONAL ACTIVITIES (Other than Private Security)

.....

.....

.....

NAME ON BALLOT PAPER.....

(The name to be printed on the ballot paper must be your surname and one or more of your given names (or an initial or a commonly accepted variation). You must use the

same name on your candidate profile. To ensure fairness between candidates the Secretary to the Board may rule that a name is inappropriate for inclusion on the ballot paper).

NAME OF FIRST NOMINATOR:

ID./PASSPORT NO.:

NAME OF REPRESENTATIVE ASSOCIATION:

MEMBERSHIP ID IN THE REPRESENTATIVE ASSOCIATION:

NAME OF SECOND NOMINATOR:

ID./PASSPORT NO.:

NAME OF REPRESENTATIVE ASSOCIATION:

MEMBERSHIP ID IN THE REPRESENTATIVE ASSOCIATION:

Your nomination must be accompanied by a candidate's profile of not more than 150 words plus your name, address and contact numbers. The profile must be confined to information about you. It should include a recent pass-port size photo. The profile must be printed on a single A4 page.

CONSENT: By signing this nomination form the nominee, if appointed, consents to act as a member of the Private Security Regulatory Authority Board.

SIGNATURE OF NOMINEE:Date:

NOMINATED BY: First Nominator (Please print and sign)

Second Nominator..... (Please print and sign)

FORM PSR 2

r 9 (2) (b))

FORM PSR 2: BALLOT PAPERS FORM

ELECTION OF REPRESENTATIVE TO THE PRIVATE SECURITY REGULATORY AUTHORITY BOARD FOR THE [insert name of constituency] CONSTITUENCY	
Vote for only three candidates by putting a cross <input checked="" type="checkbox"/> on the box next to your choice	
Name of First Candidate	(Tick here)
Name of Second Candidate	
Name of Third Candidate	
Name of Fourth Candidate	
Name of Fifth Candidate	

FORM PSR 3

(r 9 (4) (a))

FORM PSR 3: VOTING BY PROXY FORM

ABOUT YOU

NAME:
(surname) (middle name) (first name)

NATIONAL ID:

MEMBERSHIP ID:

CONTACT DETAILS:

AT WHICH ELECTION DO YOU WANT YOUR PROXY TO VOTE (include date of election):
.....

EXPLAIN WHY YOU ARE NOT ABLE TO VOTE ON THE DAY OF ELECTION:
.....

WHAT IS THE RELATIONSHIP BETWEEN YOU AND YOUR PROXY?:
.....

ABOUT YOUR PROXY

NAME:
(surname) (middle name) (first name)

NATIONAL ID:

MEMBERSHIP ID:

CONTACT DETAILS:

Declaration: As far as I know, the details on this form are true and accurate. I understand that to provide false information on this form is an offence. I have asked the person I have named as my proxy and confirm that he/she is willing and able to be appointed to vote on my behalf.

.....
Signature of Applicant Date (dd/mm/yyyy)

PROXY:
.....
Signature of Proxy Date (dd/mm/yyyy)

FOR OFFICIAL USE ONLY

SCRUTINEER NAME

POSITION HELD DURING ELECTIONS

.....
Signature Date (dd/mm/yyyy)

FORM PSR 4

(r. 9 (6))c)

FORM PSR 4: CERTIFICATE OF ELECTION RESULTS FORM

I certify that the results of the election for representatives to the Private Security Regulation Board for _____ (insert name of constituency) held on _____ (dd/mm/yyyy) were as follows:

No.	Name of Candidate	Constituency	Number of votes
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Total Number of eligible voters: _____

Total Valid Votes: _____

Total Invalid
Votes: _____

Percentage of Voter Turnout: _____

Name of returning officer: _____

.....
(signature of returning officer) (dd/mm/yyyy)

FORM PSR 5

(r. 11 (1))

FORM PSR 5: NOMINATION FORM FOR A REPRESENTATIVE OF REGISTERED RESIDENTS AS-SOCIATION TO THE BOARD

NAME OF RESIDENTS ASSOCIATION.....

DATE OF ESTABLISHMENT:

REGISTRATION NO.:

AREA THE ASSOCIATION REPRESENTS:.....

NO. OF MEMBERS IN THE ASSOCIATION (Attach list of members with this document):
.....

PHYSICAL LOCATION OF THE ASSOCIATION:

STATE THE CRITERIA IN WHICH THE NOMINEE WAS SELECTED
(Attach minutes that led to this selection)

.....
.....
.....

NAME OF NOMINEE:

.....
.....
.....
(surname) (first name) (middle name)

NATIONAL ID:

MEMBERSHIP ID IN THE RESIDENTS ASSOCIATION:

YEAR OF MEMBERSHIP TO THE ASSOCIATION:

POSITION HELD IN THE RESIDENTS ASSOCIATION (if any):

PHYSICAL RESIDENTIAL ADDRESS (attach proof of residence):

.....

PLACE OF WORK & CURRENT POSITION:

.....

PROFESSIONAL QUALIFICATIONS:

.....

.....

PREVIOUS GOVERNANCE EXPERIENCE(if any):

.....

.....

PROFESSIONAL ACTIVITIES IN RELATION TO PRIVATE SECURITY (if any):

.....

This nomination must be accompanied by a nominee's profile of not more than 150 words plus their name, address and contact numbers. The profile must be confined to information about the candidate. It should include a recent passport size photo and a colored copy of their ID. The profile must be printed on a single A4 page.

CONSENT: By signing this nomination form the nominee, if appointed, consents to act as a member of the Private Security Regulatory Authority Board.

NOMINEE:
.....
(signature) (date: dd/mm/yyyy)

SECRETARY TO THE ASSOCIATION:

NAME:
.....
(surname) (first name) (middle name)

NATIONAL ID (attach a colored copy):

CONTACT DETAILS:

PHYSICAL RESIDENTIAL ADDRESS (attach proof of residence):

.....
(signature) (date: dd/mm/yyyy)

CHAIRMAN TO THE ASSOCIATION:

NAME:

(surname) (first name) (middle name)

NATIONAL ID (attach a coloured copy):

CONTACT DETAILS:

PHYSICAL RESIDENTIAL ADDRESS(attach proof of residence):

.....
(signature) (date: dd/mm/yyyy)

FORM PSR 6: NOMINATION FORM FOR A REPRESENTATIVE FROM KEPSA TO THE BOARD (r.12 (1))

DETAILS OF FIRST NOMINEE

NAME OF ORGANISATION NOMINEE BELONGS TO:

REGISTRATION NO. OF ORGANISATION (attach a copy of certificate of incorporation):

INDUSTRY IN WHICH THE ORGANISATION BELONGS TO:

NAME OF NOMINEE:

(surname) (first name) (middle name)

NATIONAL ID,

MEMBERSHIP ID OF ORGANISATION IN KEPSA

YEAR OF MEMBERSHISHIP TO THE ASSOCIATION

POSITION HELD IN KEPSA (if any):

CURRENT POSITION HELD IN ORGANISATION:

PROFESSIONAL QUALIFICATIONS:

PREVIOUS GOVERNANCE EXPERIENCE (if any):

PROFESSIONAL ACTIVITIES IN RELATION TO PRIVATE SECURITY(if any):

DETAILS OF SECOND NOMINEE

NAME OF ORGANISATION NOMINEE BELONGS TO:

REGISTRATION NO. OF ORGANISATION (attach a copy of certificate of incorporation):

INDUSTRY IN WHICH THE ORGANISATION BELONGS TO:

NAME OF NOMINEE:
(surname) (first name) (middle name)

NATIONAL ID:

MEMBERSHIP ID OF ORGANISATION IN KEPSA:

YEAR OF MEMBERSHIP TO THE ASSOCIATION:

POSITION HELD IN KEPSA (if any):

CURRENT POSITION HELD IN ORGANISATION:

.....

PROFESSIONAL QUALIFICATIONS

.....

PREVIOUS GOVERNANCE EXPERIENCE (if any):

.....

.....

PROFESSIONAL ACTIVITIES IN RELATION TO PRIVATE SECURITY (if any):

.....

DETAILS OF THIRD NOMINEE

NAME OF ORGANISATION NOMINEE BELONGS TO

REGISTRATION NO. OF ORGANISATION (attach a copy of certificate of incorporation)

INDUSTRY IN WHICH THE ORGANISATION BELONGS TO:

NAME OF NOMINEE:
(surname) (first name) (middle name)

NATIONAL ID

MEMBERSHIP ID OF ORGANISATION IN KEPSA:

YEAR OF MEMBERSHIP TO THE ASSOCIATION:

POSITION HELD IN KEPSA (if any)

CURRENT POSITION HELD IN ORGANISATION:

.....

PROFESSIONAL QUALIFICATIONS:

.....

PREVIOUS GOVERNANCE EXPERIENCE (if any)
.....
.....

PROFESSIONAL ACTIVITIES IN RELATION TO PRIVATE SECURITY(if any):
.....

This nomination must be accompanied by a list of all members of the alliance, a copy of the minutes that led to the selection of these nominees, a short profile of each nominee stating what they hope to achieve as members of the board, a recent passport size photo and a colored copy of their ID. The profile must be printed on a single A4 page.

CONSENT: By signing this nomination form the nominee, if appointed, consents to act as a member of the Private Security Regulatory Authority Board.

FIRST NOMINEE
(signature) (date: dd/mm/yyyy)

SECOND NOMINEE:
(signature) (date: dd/mm/yyyy)

THIRD NOMINEE:
(signature) (date: dd/mm/yyyy)

SECRETARY TO THE ALLIANCE:

NAME:
(surname) (first name) (middle name)

NATIONAL ID (attach a colored copy):

CONTACT DETAILS:

PHYSICAL RESIDENTIAL ADDRESS (attach proof of residence):

.....
(signature) (date: dd/mm/yyyy)

CHAIRMAN TO THE ALLIANCE:

NAME:
(surname) (first name) (middle name)

NATIONAL ID (attach a colored copy)

CONTACT DETAILS:

PHYSICAL RESIDENTIAL ADDRESS(attach proof of residence):

.....
(signature) (date: dd/mm/yyyy)

FORM PSR 7

(r.14 (1))

FORM PSR 7: APPLICATION FOR REGISTRATION/RENEWAL FOR
INDIVIDUAL PRIVATE SECURITY PROVIDERS

PERSONAL DETAILS

(attach copy of ID/Passport)

NAME:

(surname)

(first name)

(middle name)

DATE OF BIRTH:

(dd/mm/yyyy)

NATIONALITY ID/PASSPORT NO.:

GENDER:

P. O. BOX:

(address number)

(code)

(town)

MOBILE NO.: (personal)

EMAIL ADDRESS: (personal)

PLACE OF RESIDENCE DETAILS

COUNTY SUB-COUNTY

CONSTITUENCY LOCATION:

CHIEF ASSISTANT CHIEF

ESTATE: MAJOR ROAD

MATATU ROUTE SACCO MATATU ROUTE NO.:

ALIGHTING STAGE NEAREST SCHOOL:

NEAREST HOSPITAL NEAREST POLICE STATION:

BUILDING:

(name and/or number)

FAMILY DETAILS

(indicate details of deceased persons)

FATHER'S NAME:

(surname)

(middle name)

(first name)

MOBILE NO:

CURRENT LOCATION:

(county)

(constituency)

(village/stage name)

MOTHER'S NAME:

(surname)

(middle name)

(first name)

(in case of a private security provider)

Position held in security firm:

Name of security firm:

Security firm's registration No.:

(incase of a company that is not a private security firm)

Position held in the firm:

Name of firm

Firm's registration No.:

State services provided by firm targeted end user

Attach detailed information of the function of the security software (attach prototype where necessary in the case of a security software development:

.....

Location where the security software will be installed:

.....

Radius the security software covers:

Purpose for installation/development of security software:

.....

Attach full list and details of the equipment to be used with the security software:

No.	Name of equipment	Quantity	Function	Serial No.

Attach full list of persons assigned to monitor the security software:

No.	Name	Licence number	Designation

For security software installation:

I hereby certify that the forgoing information declared by me is, to the best of my knowledge, true and accurate. I am aware that if anything declared by me is proved to be false or incorrect, I will be liable to penalty under law.

.....
Signature of Applicant

.....
Date (dd/mm/yyyy)

For security software development:

I hereby certify that during development of this security software, copyright laws and laws on data protection were adhered to and that the foregoing information declared by me is, to the best of my knowledge, true and accurate. I am aware that if anything declared by me is proved to be false or incorrect, I will be liable to penalty under law.

.....
Signature of Applicant

.....
Date (dd/mm/yyyy)

SECOND SCHEDULE:

FEES

(r. 14(2), 15(2))

The annual fee payable by corporate private security providers shall be determined by the type of security service and the size of the service provider as follows:

Category A: Service based

	<i>Service</i>	<i>Annual fees (Kshs)</i>
1.	Guarding services	50,000
2.	Cash and Valuables in Transit	200,000
3.	Designing, manufacturing, importing, maintaining, repairing, distribution or installation of a security system in incorporating a security device or equipment	50,000
4.	Investigation	50,000
5.	Training Department/ Institution	100,000
6.	Armed Escort services	200,000
7.	Consultancy services	50,000
8.	Animal section	50,000
9.	Close protection	100,000
10.	Mobile patrol & alarm response unit	50,000
11.	Aviation security	100,000
12.	Maritime security	100,000

Category B: Size based

	<i>Size of service provider</i>	<i>Annual fees (Kshs)</i>
1.	Less than or equal to 100 employees	50,000
2.	101 to 200 employees	56,250
3.	201 to 500 employees	131,250
4.	501 to 1,000 employees...	243,750
5.	1,001 to 2,000 employees	506,250
6.	2,001 to 3,000 employees	618,750
7.	3,001 to 4,000 employees	881,250
8.	4,001 to 5,000 employees	993,750
9.	5,001 to 6,000 employees	1,256,000
10.	6,001 to 7,000 employees	1,368,750
11.	7,001 to 8,000 employees	1,631,250
12.	8,001 to 9,000 employees	1,743,750
13.	9,001 to 10,000 employees	2,006,250
14.	10,001 over employees	2,006,250
		plus 200 for every employee in excess of 10,000

The annual fee payable by individual private security providers shall be as follows:

	<i>Service</i>	<i>Annual fees (Kshs)</i>
1.	Private Security Officer (Guard)	1,560
2.	Private Security Officer (Supervisor, Shift Manager, Door Supervisor, Event Security, Control Room Operators, CVIT Escort, Junior Management)	2,340
3.	Security Equipment Installer/Operator/ Serviceman/Repair	2,340
4.	Instructor/Trainer	2,340
5.	Close Protection	4,680
6.	Investigator	7000
7.	Consultant	10,000
8.	Senior Management/Administrator	12,000
9.	Director/Partner/Trustee/Member	24000
10.	Other	As may be prescribed by the Cabinet Secretary.

THIRD SCHEDULE

(r. 21(8))

SPECIFICATIONS AND STANDARDS FOR EQUIPMENT AND FACILITIES

1. Control Room/Central Alarm Monitoring Station (CAMS) requirements
 - (a) Where a private security service provider is required by the nature of the work to operate a control room, it shall comply with the following requirements:
 - (i) be manned at all times during operating hours of the company;
 - (ii) the shell of the control room shall be a secure building with adequate ventilation;
 - (iii) the outer door(s) shall be fitted with automatic self-closing and locking devices;
 - (iv) access to the control room shall be controlled by surveillance from within;
 - (v) access to the control room shall be restricted to authorized personnel only, (of which a movements log or an electronic data log capable of providing a printed copy on demand should be maintained inside the control room for a minimum period of 6 months);
 - (vi) be fitted with a standby lighting and power for uninterrupted operation and communications in the event of a mains failure for not less than 12 hours.
 - (b) Where the control room is used for on-site alarm monitoring, a secure cabinet or safe for the protection of client information should be provided with the following particulars:
 - (i) name, address and telephone number of the subscriber with an allocated reference number and details of any special arrangements or circumstances concerning the subscriber;
 - (ii) name, address and telephone number of key holder(s);
 - (iii) agreed setting and unsetting times; and
 - (iv) all alarm events, for not less than 6 months (by printout on demand if stored electronically).
 - (c) Where information is kept electronically, it shall be made available to the Authority upon request and the data shall be protected from unauthorized access and tampering, with proper back-up storage.
 - (d) There shall be an emergency duress alarm in the control room for summoning assistance when required.
 - (e) The locking device shall be operable without the use of a key from inside the control room or under the emergency entry procedure.
 - (f) There shall be a minimum of one single direct telephone line.
2. Vaults and vaulting area requirements
 - (a) A vault or vaulting area shall meet the following requirements:

- (i) Have a sterile loading/unloading facility for cash or valuables at the company premises.
- (ii) Have a sterile loading/unloading area large enough to securely house at least one armoured vehicle.
- (iii) The sterile area shall be closed off at the vaulting side by a receiving hatch and by at least one roller shutter door (of a closed link structure) at the entrance.
- (iv) The receiving hatch and entrance door should not be opened at the same time.
- (v) The vault walls, floor and ceiling of a minimum 225 mm reinforced concrete construction or equivalent.
- (vi) The vault doors shall be reinforced for strength.
- (vii) Where the vault is not manned 24 hours the vault and vault area shall have a monitored alarm with a direct connection to an approved central alarm monitoring station.
- (viii) The walls of the vault perimeter area of a minimum 150 mm reinforced concrete block or equivalent.

3. Armoured vehicles requirements

A private security service provider which operates armoured vehicles shall comply to the following requirements:

- (a) the armoured vehicles shall be of at least Ballistic Protection Level B5
- (b) All vehicles shall —
 - (i) be fitted with a legal alarm for use in an emergency;
 - (ii) have an identification number painted on the roof of such a size as to be clearly visible from the air;
 - (iii) be fitted with a vehicle radio capable of communicating with the company cash control room at all times, on approved frequencies. Mobile phones can be accepted in lieu of a vehicle radio;
 - (iv) have sealed windows which are not openable;
 - (v) be air-conditioned and shall be fitted with an appropriate fire-fighting equipment approved by the Authority;
 - (vi) be manned and escorted at all times while transporting cash or other valuables;
 - (vii) display the name and telephone number of the private security service provider on the front, back and side of the vehicle; and
 - (viii) be insured, licensed and inspected in accordance to national laws and all other subsidiary legislation made thereunder.

4. Distribution and installation of security equipment requirements

A private security service provider engaging in the distribution or installation of security equipment shall —

- (a) have an electronic and technical workshop of an adequate size, with sufficient facilities to provide adequate service repair;
 - (b) have sufficient test equipment and tools necessary for carrying out installation work, service repair and field services;
 - (c) maintain a detailed list of equipment for record purposes; and
 - (d) ensure that all security equipment designed, installed, maintained and re-paired meet the standards required by the Authority.
5. Other specifications and standards

The Authority may, from time to time issue specifications and standards for —

- (a) rapid response cars;
- (b) vehicle sirens and warning lights;
- (c) distribution and installation of security equipment;
- (d) tele-protection;
- (e) contingency fittings; and
- (f) any other equipment or facility used in the provision of private security service.

Dated the 13th June, 2019.

FRED MATIANG'I

Cabinet Secretary for Interior and Co-ordination of National Government.

SUBMISSION TO THE NATIONAL ASSEMBLY FROM THE JOINT SECURITY INDUSTRY ASSOCIATIONS



The Kenya Security Industry Association (KSIA) advocates, establishes and maintains quality operating standards for their members.



The Protective Security Industry Association (PSIA) advocates and ensures professionalism and provision of quality services to their clients.



The Protective & Safety Association of Kenya (PROSAK) works to ensure professionalism in the management of corporate security and safety operations in Kenya.

IMPACT

- Unnecessary, regular mass strike action from security workers as enforcement of gazetted Regulations are unable to be implemented, leaving the National economy exposed
- Unemployment of thousands of Private Security workers as companies fail to comply and are de-licensed and others lay off workers as they automate services
- Loss of public confidence in National security structure
- Spike in crime and violence as homes and businesses are left exposed to skilled unemployed individuals with multiple dependents who become desperate
- Exposure to countrywide Terror attacks as the first line of detection, deterrence and defense is weakened
- Vulnerability to Radicalization and Violent Extremism of affected Security workers
- Creation of an unsecured national environment in buildup to 2022 General Elections. Changes implemented in haste in 2020 will take years to reverse if found to be unworkable
- Creation of Private armies as Drug and Corruption cartels buy armed security services in bulk. E.g. Mexico
- Creation of corruption networks in Private Security as players actively seek and find 'shortcuts' to comply.
- Uncertainty and anxiety have been driven into the hitherto stable and peaceful Private Security sector

- Loss of Tourism and impact across Kenya's hospitality industry. E.g. Mexico
- Private Security Sector for the first time in Kenyan history is witnessing emergence of a monopoly player with intention of Market dominance an unhealthy development
- Emergence of rogue security operators
- Security is a critical factor in all aspects and economic sectors in the country.
- Youth unemployment and indiscipline instead of job creation and clear career pathways through properly developed and harmonized National Security training curriculum. E.g. NITA



CHAIRMAN
PROSAK



CHARIMAN
PSIA



C.E.O.
KSIA



Security and Safety Experts



**PROTECTIVE SECURITY
INDUSTRY ASSOCIATION**



Contact information:

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PRIVATE SECURITY JOINT ASSOCIATION REPORT

TO PARLIAMENTARY COMMITTEE ON DELEGATED

LEGISLATIONS

PRESENTED

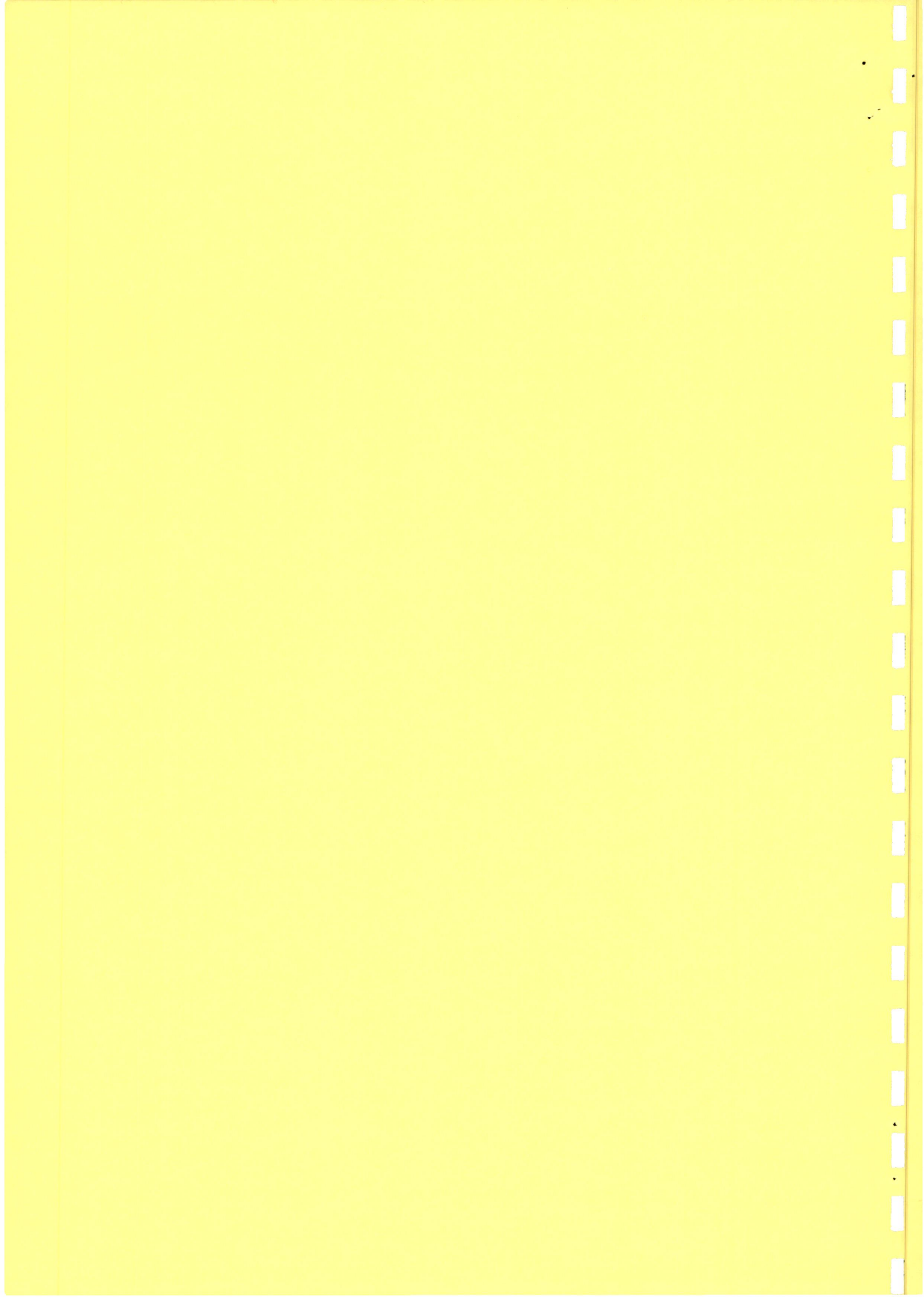
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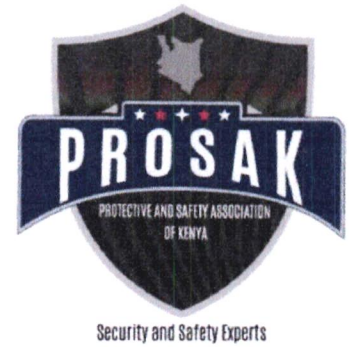
THREE LEADING ASSOCIATION IN KENYA

ON OCTOBER 29,2019

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JOINT ASSOCIATION SUBMISSION CHALLENGES	2
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**SUBMISSION OF JOINT
MEMORANDA TO
THE NATIONAL ASSEMBLY
ON
PRIVATE SECURITY REGULATIONS 2019
AND
PRIVATE SECURITY REGULATIONS ACT,
2016**

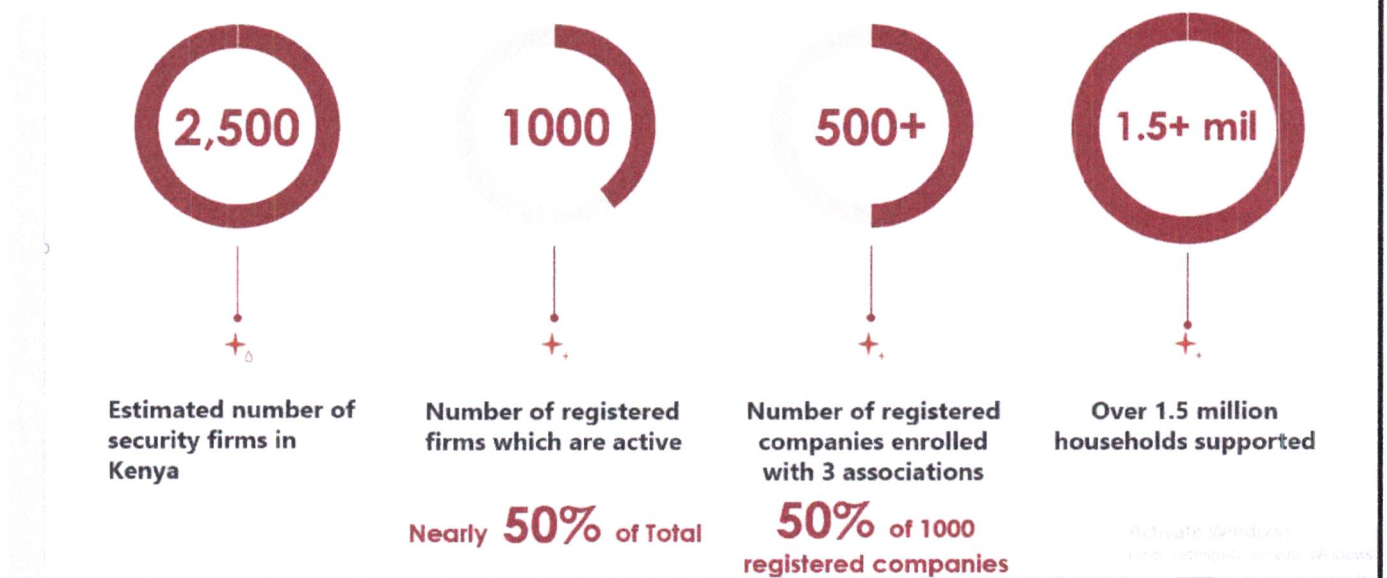
OCTOBER 2019

INTRODUCTION

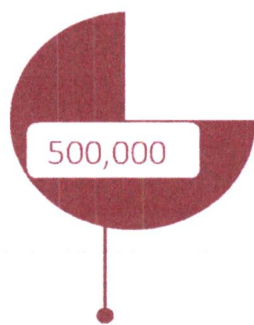
The **Ministry of Interior and Coordination of National Government (MICNG)** has gazetted the **Private Security (General) Regulations, 2019** to operationalize the **Private Security Regulation Act, 2016**. These were gazetted on **5th of July 2019** with a **6 months compliance deadline** that expires on **5th January 2020**, a timeline which is too short for full implementation.

KSIA, PSIA and PROSAK, key stakeholders and actors in the Private Security industry, applaud the government for this move, recognizing the order and efficiency that implementation of the Act and regulations will bring to the vital industry.

Following a review, the associations have noted various issues with the regulations, which they propose to be resolved in consultation with stakeholders before implementation.



Estimated number of guards in Kenya



Private Security Sector employs over **500,000** security officers and personnel who offer these services to industrial, residential and commercial properties both in public and private institutions. Informal security is approximated at another 500,000 +

Number of employees in Private Security Sector



REVENUE GENERATION

OVER KES100,000,000,000. USD \$1 BILLION ANNUAL CONTRIBUTION TO THE KENYAN ECONOMY

ECONOMIC SUPPORT TO THE COUNTRY

500,000 X 5 DEPENDENTS = 1,500,000 DIRECTLY SUPPORTED

MAJOR CHALLENGES IN SECURITY GUARDING

The challenges in the Security Industry

Below are just a few to mention:

1. Remuneration
2. Working conditions for our officers
3. Level of education and training
4. Equipment and cost
5. Firearms
6. Non- paying customers
7. Undercutting
8. Legislation
9. Taxation
10. Finance

KEY CHALLENGES WITH REGARDS TO THE NEW REGULATIONS

1. 6 Compliance period
2. Public Participation
3. Harmonization of training
4. Categorization of wages
5. PSRA Board
6. Fidelity Fund
7. Licenses & fees
8. Arming of guards

COPORATE SERVICE FEES

Category A: Service based

	<i>Service</i>	<i>Annual fees (Kshs)</i>
1.	Guarding services	50,000
2.	Cash and Valuables in Transit	200,000
3.	Designing, manufacturing, importing, maintaining, repairing, distribution or installation of a security system in incorporating a security device or equipment	50,000
4.	Investigation	50,000
5.	Training Department/ Institution	100,000
6.	Armed Escort services	200,000
7.	Consultancy services	50,000
8.	Animal section	50,000
9.	Close protection	100,000
10.	Mobile patrol & alarm response unit	50,000
11.	Aviation security	100,000
12.	Maritime security	100,000

Category B: Size based

	<i>Size of service provider</i>	<i>Annual fees (Kshs)</i>
1.	Less than or equal to 100 employees	50,000
2.	101 to 200 employees	56,250
3.	201 to 500 employees	131,250
4.	501 to 1,000 employees...	243,750
5.	1,001 to 2,000 employees	506,250
6.	2,001 to 3,000 employees	618,750
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12.	8,001 to 9,000 employees	1,743,750
13.	9,001 to 10,000 employees	2,006,250
14.	10,001 over employees	2,006,250
		plus 200 for every employee in excess of 10,000

INDIVIDUAL EMPLOYEE FEES

The annual fee payable by individual private security providers shall be as follows:

	<i>Service</i>	<i>Annual fees (Kshs)</i>
1.	Private Security Officer (Guard)	1,560
2.	Private Security Officer (Supervisor, Shift Manager, Door Supervisor, Event Security, Control Room Operators, CVIT Escort, Junior Management)	2,340
3.	Security Equipment Installer/Operater/ Serviceman/Repair	2,340
4.	Instructor/Trainer	2,340
5.	Close Protection	4,680
6.	Investigator	7000
7.	Consultant	10,000
8.	Senior Management/Administrator	12,000
9.	Director/Partner/Trustee/Member	24000
10.	Other	As may be prescribed by the Cabinet Secretary.

CURRENT, MINIMUM MONTHLY GUARDING COST AS FROM JAN 2019

DETAILS	NAIROBI, MOMBASA & KISUMU		OTHER MUNICIPALITIES		ALL OTHER AREAS	
	Night	Day	Night	Day	Night	Day
Basic Salary	15,142	13,572	14,023	12,521	8,634	7,240
Overtime per month (Excess of Weekly 52 Hours)	8,736	7,831	8,090	7,223	4,982	4,178
Leave prorated (26 days per year)	1,094	980	1,012	1,012	615	523
Reliever 4 days (Sunday per month)	4,038	3,619	3,739	3,339	2,302	1,930
Public holidays prorated (10 p.a)	421	377	390	349	240	201
NSSF	200	200	200	200	200	200
House allowance at 15% of basic salary	2,271	2,036	2,102	1,877	1,295	1,086
WIBA (based on a wage of Ksh 15,142 p.m)	2,106	2,106	2,106	2,106	2,106	2,106
Total	34,008	30,721	31,662	28,518	20,374	17,464

1. We propose the Private Security Wages council to be operational.
2. We propose negotiation to be done in consultation with Ministry of Labour, Private Security players and other authorities in order to offer solution to the basic wage rate formulation and minimum wage regulation which requires enactment of a Private security wages order. Private security guards will therefore have 72 working hours instead 52 hours. {General Wages Order of 1998 which was amended in 2003}
3. Segment the security guarding industry and guard Basic pay using the customer and guards' categorizations as follows;

PROPOSED MINIMUM MONTHLY GUARDING COST

Standard Guard	Category A	Category B	Category C	Category D
Customer Paying	75,000.00	50,000.00	35,000.00	20,000.00
GUARD BASIC PAY	60,670.00	42,043.00	29,064.00	16,608.00
Less House allowance	7,841.00	5,572.00	5,231.00	2,989.00
Less Nssf	200.00	200.00	200.00	200.00
Less Gratuity	1,114.00	743.00	520.00	297.00
Less public holiday	566.00	402.00	378.00	216.00
Less reliever 7 th day	6,925.00	4,751.00	3,447.00	1,970.00
Less annual leave	2,760.00	1,914.00	1,406.00	803.00
Less uniform cleaning	1,371.00	914.00	639.00	365.00
Less uniform (2pairs)	1,842.00	1,842.00	1,842.00	1,842.00
Less work injuries wiba	502.00	335.00	335.00	134.00
Less stand guard cost	1,246.00	855.00	855.00	354.00
„ reliever training	569.00	390.00	390.00	162.00
„ medical expenses	250.00	250.00	250.00	250.00
„ NITA Training levy	50.00	50.00	50.00	50.00
„ leave travel allowance	79.00	79.00	79.00	79.00
GUARD NET PAY	35,355.00	23,746.00	13,885.00	6,897.00

Standard Guard	Category A	Category B	Category C	Category D
Guards Net	35,355.00	23,746.00	13,885.00	6,897.00
Net Overheads				
Less supervision cost	600.00	600.00	600.00	600.00
Less supervision transport	300.00	300.00	300.00	300.00
Less control room	300.00	300.00	300.00	300.00
Less Co- insurance	120.00	120.00	120.00	120.00
Less Initial Training	1,000.00	1,000.00	1,000.00	1,000.00
Less Specialized Training	5,000.00	3,000.00	-	-
Less Torch/ Batteries	100.00	100.00	100.00	100.00
Less bank salary transfer	120.00	120.00	120.00	120.00

GUARD SEGMENTATION

CATEGORY A – Minimum Service Charge KES 75,000 + VAT

- Banks
- Government Buildings - Parastatals
- Universities
- Embassies and Diplomatic Missions
- Churches
- Malls
- Residential-High income
- Hotels 3* and above
- Aviation Industry
- Hospitals Level 4 and 5
- Critical Infrastructure
- Maritime
- High Risk Events
- Oil, Gas and Mining

CATEGORY B – Minimum Service Charge KES 50,000 + VAT

- Construction
- Residential –Lower Income
- Manufacturing Industry
- Commercial Buildings
- High Schools

CATEGORY C – Minimum Service Charge KES 35,000 +VAT

- Residential-lower Income
- Primary Schools
- All others as may be prescribed from time to time

CATEGORY D- Rural.

COMPETENCY LEVELS BY SEGMENT

CATEGORY C

1. As provided by the Act
2. Basic Training


CATEGORY B

1. Five Years of Experience
2. Category C Competency and Advanced Training

CATEGORY A

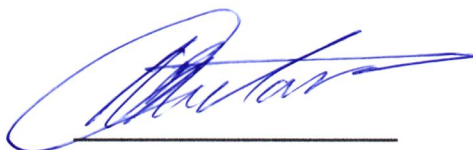
1. Three years of experience in Category B
2. Additional Training

Memorandum to the National Assembly

SIGN 

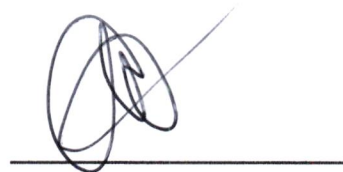
CHAIRMAN

KSIA



CHAIRMAN

PSIA

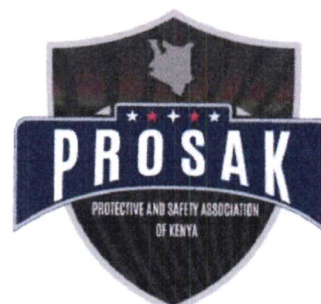


CHAIRMAN

PROSAK



**PROTECTIVE SECURITY
INDUSTRY ASSOCIATION**



Security and Safety Experts

SUBMISSION TO THE NATIONAL ASSEMBLY FROM THE JOINT SECURITY INDUSTRY ASSOCIATIONS

25th October 2019



The Kenya Security Industry Association (KSIA) advocates, establishes and maintains quality operating standards for their members.



The Protective Security Industry Association (PSIA) advocates and ensures professionalism and provision of quality services to their clients.



The Protective & Safety Association of Kenya (PROSAK) works to ensure professionalism in the management of corporate security and safety operations in Kenya.

INTRODUCTION

The Ministry of Interior and Coordination of National Government (MICNG) has gazetted the Private Security (General) Regulations, 2019 to operationalise the Private Security Regulation Act, 2016.

KSIA, PSIA and PROSAK, key stakeholders and actors in the private security industry, applaud the government for this move, recognizing the order and efficiency that implementation of the regulations will bring to this vital industry.

We are in full support of the Government of Kenya as it seeks to build a stronger better structured and accountable security environment.

Following a review, however, the associations have noted various issues with the regulations, which they propose to be resolved in consultation with stakeholders before implementation.

The three key industry associations that oversee the majority of Kenya's private security industry serving over 500,000 private security officers, thousands of security companies, hundreds of security consultants and security clients, that is, Kenya Security Industry Association (KSIA), Private Security Industry Association (PSIA), Protective and Safety Association of Kenya (PROSAK) provide this submission to the National Assembly highlighting areas of key concern and challenges with risk of impact on both National Security and the Kenyan Economy.

CHALLENGES

8 items of concern have been raised by our members;

1. **The compliance period** of the new Regulations which is **6 months** is too short to comply with all the stipulated requirements. A mass engaged workforce of over 500,000 security officers cannot be efficiently trained within the remaining two months. Changing of uniforms, vehicles, control rooms, equipment, animals and organizational structures countrywide is not feasible within the timeline given. We therefore recommend a phased compliance approach over a period of 5 years.

2. Public participation has not been conducted countrywide

Public participation was not conducted in all 47 Counties and further the compliance to the regulations has not been communicated to all impacted users as per section 9 (n) of the Private Security Regulation Act (2016). Therefore all the stakeholders have not been sensitized on the implications of the ACT & Regulations. This is a key function of the Authority according to the Act.

3. Training

The Regulations require training of security officers, Managers and Directors prior to issuance of individual and corporate licenses to operate. To date there is no accredited institution, accredited trainers, assessment criteria and approved curriculum by PSRA in accordance to Section 9 subsection (1) of the Regulations. According to the Regulations Section 18(4) "a person who procures the services of a private security service provider who is not registered commits an offence". The Industry may need to train all and it is not feasible and affordable to train over 500,000 guards in 2 months.

Training Requirements and immediate challenges

- Currently there is no accredited curriculum as there are several curriculum from NITA, TVETA & PSRA which need to be interrogated and harmonized.
- As per the NITA curriculum training hours require 320 hours or 45 days.
- The class should have 30 trainees' maximum which translates to 16,000 individual classes.
- We don't have the infrastructure to accommodate the 16,000.
- To date, there are no accredited security training institutions.
- To date there are no officially accredited Trainers.
- To train the employed guards you need to employ relievers who will not have been trained and cannot be deployed in the fields.
- The guards need to be examined (assessed) and this requires registered assessors, test preparation delivery and certification.
- In accordance with the ACT section 9(i) 3 requires PSRA to work with other bodies entitled by Law to set standards in respect of training i.e. NITA/TVETA

Failure to comply with the training requirements means that by 6th January 2020 will automatically result in individuals and companies being unable to execute normal private security functions. This poses a national security threat countrywide.

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4. Harmonization of all Legislation governing Labour matters in Private Security

As per the recently gazette regulations Section 16 (e) requires proof of compliance with the set minimum wages.

The current legislations require security officer's monthly salary to be paid a salary of Kes. 27,993 for a night guard and Kes. 25, 641 for a day guard.

In order to comply with this requirement and in addition cover costs of recruitment, vetting, training, equipping, kitting, insurance and other administrative costs, a security company will have to charge a minimum of Kes 51,000 or more to each client per security officer and this is exclusive of VAT and other statutory costs.

We advise that these costs are beyond sustainability in an already burdened economic environment.

Our proposal is categorization of Security services in accordance with risk profiles and not according to geographical locations as stipulated in the General Wages Order and the Private Security Wages order, 1998 & 2003.

At such a cost, is security a right for all persons living in Kenya or the sole preserve of a privileged few who will be able to afford the services?

5. PSRA Board Composition

In accordance with section 13 (1) of the newly gazetted Regulations, the existing PSRA Board positions fell vacant upon gazettelement of these regulations on 5th July 2019 and should be filled in accordance with these regulations.

Upon recently receiving letters to nominate candidates, the Associations have supported the process and submitted the names. Kindly note the following;

- In accordance with section 5 of the Regulations, any vacancy in the Board requires advertisement in at least one local daily newspaper of national circulation.
- According to the Private Security Regulation Act (2016) 11(b) 7 Private Security firms are underrepresented.

We recommend that:

1. More Board members representing Private Security firms to be appointed to be at least 4. At the moment, private security is only represented by 2 Board memers out of 11.

2. Replacement of 1 Union representation to go to Federation of Kenya Employers and National Industrial Training Authority since labour and training matters are critical in implementing the Act.

6. Private Security Fidelity Fund

As per the Act, the Private Security Fidelity Levy 61(3), "the purpose of the fund shall be to sustain the operations of the Authority and organize training workshops or seminars for Private security providers". The Regulations stipulates that 10% of the annual fees charged under section 25 of the ACT goes to the Fidelity Levy.

Challenges:

1. As per existing Kenya Government structures and the Public Financial Management Act should the Private Security Regulations Authority use this fund to sustain its operations? Matters of prudent financial management becomes a risk.

2. As per the Regulation section 27 (1) a. to d. there are only four Trustees Board members with only one Private security representative for an incorporated body. The Trustees Board for the Fidelity Levy will not be chaired by a Private Security representative.

We recommend;

1. The use of funds in the levy to be clearly defined in accordance with the relevant legislations.
2. More Board positions be added to oversee the use of funds.
3. More members from Private security to constitute the Board (3 more).

7.Licences and fees

- The rates and fees which are as high as Kes. 2 million per annual license and the compliance expenses are too costly and punitive to private security companies who will in turn carry on the costs to our clients who are Kenyans from all walks of life.
- The licenses and fees which are based on size do not encourage growth of small and medium companies and creation of new employment opportunities for the youth and do not align with the overall economic goals of the National Government vision.
- The second schedule of the Regulations does not take into consideration the impact to the employer of other annual licenses such as City Council, NEMA DOSH, CA, NCA, NITA which are existing and mandatory.

We recommend;

1. Compounding and reduction of fees to Kshs. 50, 000 – 100,000 as annual licensing fees for security companies.
2. Reduced duplication of fees charged by other Government entities e.g CA & NCA.
3. Deletion of “size based” charges to security companies. This will encourage companies to offer more employment opportunities.
4. Annual Fees payable by individuals of upto Kes. 24,000 are too high in addition to the annual costs of training entire companies including Directors,

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Shareholders and Trustees are required to pay according to the Regulations. We recommend a fees range of Kes. 500 for security Officers - 5,000 annually as per other professions within the Kenyan market.

8. Arming of Private Security

- Arming of Private Security cannot be implemented unless section 53(a) and (b) of the ACT is amended or repealed. Currently any private security company who offers armed services commits an offence under the Act.
- There is an existing plan to withdraw Armed Police from VIP protection, Cash in Transit and Protection of Critical Infrastructure.

We recommend:

- Careful consideration and public participation must be taken before the decision to arm is implemented.
- Involvement of Private Security in the discussions and modalities of transitioning to an armed Private Security sector in Kenya is mandatory from the onset so we can be better prepared.



**CHAIRMAN
PROSAK**



**CHARIMAN
PSIA**



**CHAIRMAN
KSIA**



Security and Safety Experts



**PROTECTIVE SECURITY
INDUSTRY ASSOCIATION**



Easing the regulatory compliance burden for better provision of private security services

September 2019

A policy position of the Kenya Security Industry Association (KSIA), the Protective Security Industry Association (PSIA) and The Protective & Safety Association of Kenya (PROSAK)



The Kenya Security Industry Association (KSIA) advocates, establishes and maintains quality operating standards for their members.



The Protective Security Industry Association (PSIA) advocates and ensures professionalism and provision of quality services to their clients.



The Protective & Safety Association of Kenya (PROSAK) works to ensure professionalism in the management of corporate security and safety operations in Kenya.

Introduction

The Ministry of Interior and Coordination of National Government (MICNG) has gazetted the Private Security (General) Regulations, 2019 to operationalise the Private Security Regulation Act, 2016. The Regulations have been prepared with input from various stakeholders, including the Private Security Regulatory Authority (PSRA).

KSIA, PSIA and PROSAK, key stakeholders and actors in the private security industry, applaud the government for this move, recognising the order and efficiency that implementation of the regulations will bring to the vital industry.

Following a review, the associations have noted various issues with the regulations, which they propose to be resolved in consultation with stakeholders before implementation.

Background

Kenya's private security industry supplements the security services offered by the public service organisations. Besides contributing to securing the nation, the industry provides a source of livelihood to at least 500,000 Kenyans who are direct employees attached to an estimated 2,500 security firms.

The regulations address various industry aspects including:

- ♦ The procedure of appointing members of the PSRA Board;
- ♦ Application for registration of private security service providers;
- ♦ Employment and training of personnel;
- ♦ Equipment and tools of trade;
- ♦ Cooperation with national security organs; and
- ♦ Private security fidelity levy

Challenges and joint industry proposals

As presently constituted, the regulations introduce a heavy regulatory compliance burden on the private security industry. These challenges are discussed below, as well as proposals made by KSIA, PSIA and PROSAK for consideration to facilitate formulation of regulations that will better enhance the industry as well as impact the stakeholders positively.

Monetary challenges

♦ PSRA levies and licences

The Second Schedule of the regulations outlines fees payable to the PSRA as determined by the type of security service and the size of the service provider. The size of the service providers has in turn been categorised based on the number of employees they engage. The regulations outline service-based fees payable by firms that range from KShs. 50,000 to KShs. 500,000 and firm's size-based fees that range from KShs. 75,000 to over KShs. 8 million.

KSIA, PSIA and PROSAK argue that those fees are very high and the categories not exhaustive. They hereby propose revision of the rates and diversification of the categories as presented in the Appendix of this document. This in line with the good principles of taxation; fairness and diversity.

♦ **Cost of training of private security officers**

Regulation 19 requires employers to ensure that among other things, their private security employees undergo annual mandatory security training and assessment. KSIA, PSIA and PROSAK argue that this requirement greatly increases training and retention costs of the private security officers, in addition to the annual refresher course the officers are taken through and also the costs of hiring post relievers to cover for the officers while they attend the training. The associations have analysed the current training costs per officer to range from KShs. 1,000 to KShs. 6,000 per year, while reliever costs range from KShs. 24,000 to KShs. 83,000 per employed officer per year.

The associations therefore argue that the annual training and assessment as stipulated in the regulations be done once every two years and at the expense of the private security officers as part of skills development.

♦ **Minimum wage compliance**

Regulation 16 (e) requires private security employers to comply with the minimum wage requirements laid out in the Labour Institutions Act, 2007. After consideration of market forces in the industry which lower the income of private security companies in Kenya and raise the expenditures they incur, KSIA, PSIA and PROSAK postulate that that requirement is not sustainable. As such, they propose that the MICNG, through the Private Security Wages Council, works with the associations, to formulate a tiering and zoning scale for private security firms, as well as a graduated pay scale for employees that is based on the competencies of the officers as well as the environments/regions they work in.

♦ **Withholding tax on the provision of private security services**

Clause 6 of the Finance Bill, 2019 seeks to impose withholding tax on security services. KSIA, PSIA and PROSAK observe that if implemented, the tax will add onto deductions applicable in the industry, such as licences paid to the City County, National Environment Management Authority (NEMA), Directorate of Occupational Safety and Health (DOSH), Communications Authority of Kenya (CA) and National Construction Authority (NCA), resulting in a heavy burden. Noting that the heavy burden will negatively impact the sustainability and growth of the vital industry, KSIA, PSIA and PROSAK propose that the MICNG works with the Ministry of National Treasury and Planning to exclude the industry from imposition of withholding tax.

Operational challenges

♦ **Compliance period**

Regulation 19(4) requires private security stakeholders to undergo the requisite training within six months of gazettelement of the regulations. However, there are yet few accredited training institutions available to train the large number of stakeholders who are more than half a million. Observing this, the private security industry proposes that the training be piloted and phased out to be implemented in five years.

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Regulation 20 (10) also requires private security providers to comply with the new uniform requirements within six months of the coming into force of the regulations. The associations argue that such a reform needs a longer implementation duration.

- **Training**

The regulations prescribe indiscriminate training for all persons who work within the industry. Different training needs are however necessary for different categories of operators.

The associations propose amendment of the regulations to task the Authority with development and validation of a training curriculum that distinguishes private security executive training from private security field training to be conducted by private security firms upon licensing by the Authority.

- **Requirement to vet private security officers**

Regulation 18 (2) lists documentation of physical address with supporting evidence as one of the requirements to be presented for vetting by persons seeking employment as private security service providers. The associations note that majority of the potential employees reside in informal settlements and therefore propose that this requirement be expunged so as to not lock out otherwise eligible employees in the key industry.

Appendix

Proposed service-based fees

	<i>Service</i>	<i>Annual fees (KShs)</i>
1	Guarding service	50,000
2	Cash and valuables in transit	200,000
3	Designing, manufacturing, importing, maintaining, repairing, distribution or installation of a security system incorporating security device or equipment	50,000
4	Investigation	50,000
5	Training department/institution	100,000
6	Armed escort services	200,000
7	Consultancy services	50,000
8	Animal section	50,000
9	Close protection	100,000
10	Mobile patrol and alarm response unit	50,000
11	Aviation security	100,000
12	Maritime security	100,000

Proposed size-based fees

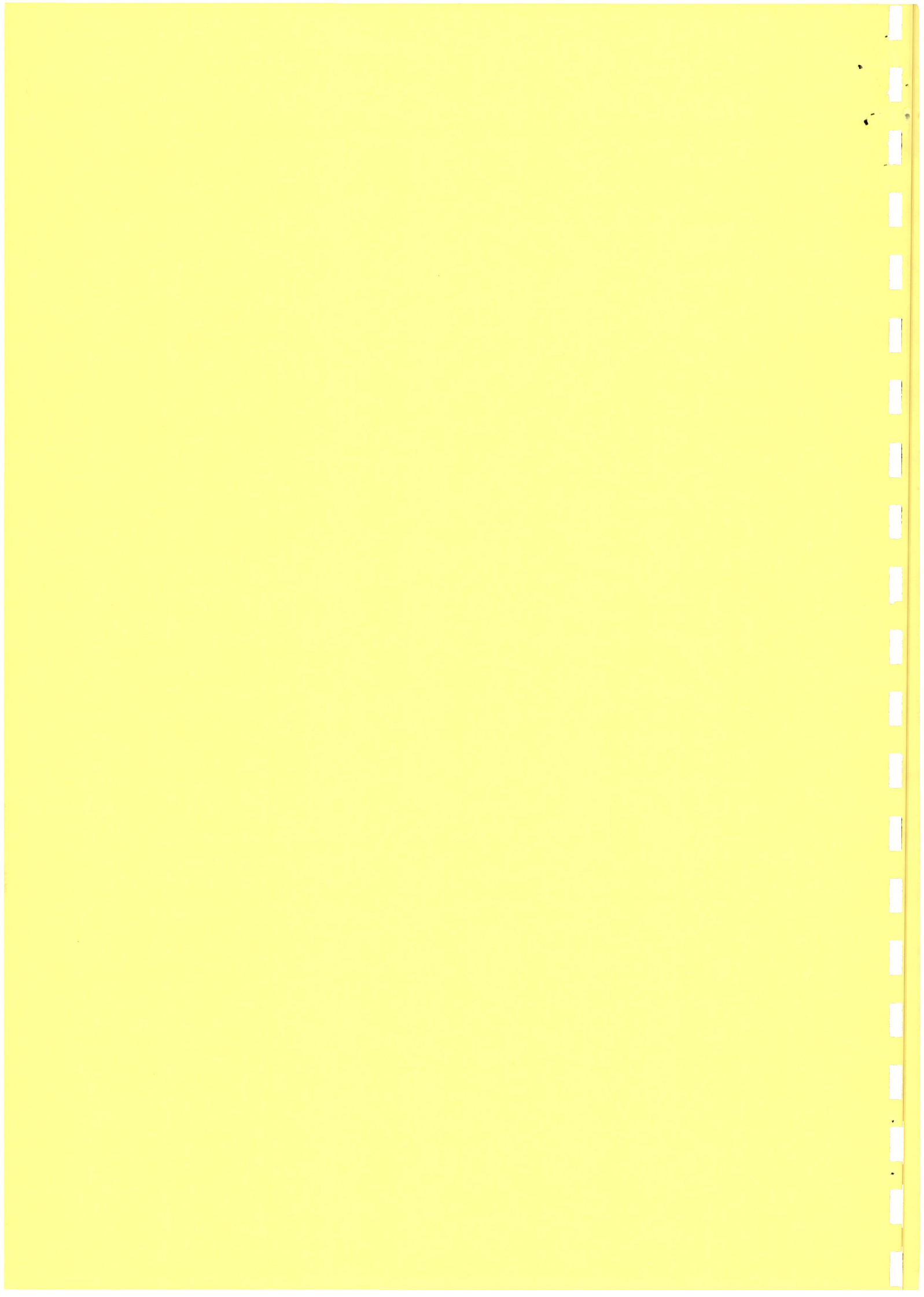
	<i>Size of service provider</i>	<i>Annual fees (KShs)</i>
1	Less than or equal to 100 employees	50,000
2	101 to 200 employees	56,250
3	201 to 500 employees	131,250
4	501 to 1,000 employees	243,750
5	1,001 to 2,000 employees	506,250
6	2,001 to 3,000 employees	618,750
7	3,001 to 4,000 employees	881,250
8	4,001 to 5,000 employees	993,750

9	5,001 to 6,000 employees	1,256,000
10	6,001 to 7,000 employees	1,368,750
11	7,001 to 8,000 employees	1,631,250
12	8,001 to 9,000 employees	1,743,750
13	9,001 to 10,000 employees	2,006,250
14	Over 10,000 employees	2,006,250 plus 200 for every employee in excess of 10,000

Proposed fees payable by individual private security providers

	<i>Service</i>	<i>Annual fees (KShs)</i>
1	Private Security Officer (Guard)	1,560
2	Private Security Officer (Supervisor, Shift Manager, Door Supervisor, Event Supervisor, Event Security, Control Room Operator, CVIT Escort, Junior Management)	2,340
3	Security Equipment Installer/ Operator/ Serviceman/Repair	2,340
4	Instructor/Trainer	2,340
5	Close protection	4,680
6	Investigator	7,000
7	Consultant	10,000
8	Senior Manager/Administrator	12,000
9	Director/Partner/Trustee/Member	24,000
10	Other	As may be prescribed by the Cabinet Secretary

THE PRIVATE SECURITY REGULATION ACT



MEMORANDUM ON THE MANDATE OF THE NATIONAL INDUSTRIAL TRAINING AUTHORITY (NITA) AS PROVIDED IN THE INDUSTRIAL TRAINING ACT CAP 237 IN RELATION TO THE TRAINING OF PRIVATE SECURITY GUARDS AS ENVISAGED UNDER THE PRIVATE SECURITY REGULATIONS, ACT 2016, AND THE PRIVATE SECURITY (GENERAL) REGULATIONS, 2019.

This submission is made pursuant to the meeting held on 29th October, 2019 between the Parliamentary Committee on Delegated Legislation, the PS Ministry of Interior & Coordination of National Government, Private Security Associations, the National Industrial Training Authority (NITA), Kenya Private Sector Alliance (KEPSA), Federation of Kenya Employers (FKE) and other relevant stake holders. The meeting sought to interrogate the Private Security Regulations, 2019, that were gazetted in 2019.

Appended below kindly find our submission on the role of NITA as provided in the Industrial Training pursuant to the Private Security (General) Regulations, 2019.

1. INTRODUCTION

- i. The Industrial Training Act Cap 237 is an Act of Parliament giving the National Industrial Training Authority the mandate of regulating the training of persons engaged in industry. The training of persons in industry is supported by the Industrial Training Levy. The Act vests the power of assessing and collecting industrial training levy on the Authority from all employers in the country at the rate of Ksh 50 per employee per month as per the Training Levy Order No 113 dated 14th June 2007.
NITA has established nine active Sector Training Committees constituted based on key sectors of the economy. Commercial, Distributive Wholesale, Retail Trade & Allied Agencies (CWR), under which the Private Security Industry is anchored, is one of the sectors. The standards of training of persons engaged in Industry are outlined in the eleven Industrial Training Schemes that set the standards for Apprenticeship training, Indentured learners hip, skills upgrading and Industrial Attachment. The Trade Test rules sets the standards for Assessment & Certification for Government Trade test.
- ii. The Private Security Regulation Act No. 13 of 2016 is an Act of Parliament that provides for the regulation of the private security industry, and gives a framework for cooperation with National Security Organs; and for connected purposes.
- iii. The Private Security Regulation Act No. 13 of 2016 conferred powers to the Cabinet Secretary for Interior and Coordination of National Government under sections 11 (2), 33, 45 (2), 51 (2), 61(4) and 70 of the Act to make Regulations generally to provide interalia the procedure for the appointment of members of the Board, matters relating to the cooperation, scope, mechanism and command in the case of cooperation with the private security service provider.
- iv. The Ministry of Interior and Coordination of National Government gazetted the private Security (General) Regulations, 2019 to operationalize the Private Security Regulations Act,

2016 on 5th July 2019, with a 6 months' compliance deadline that expires on 5th January 2020.

2.0 DEVELOPMENT OF PRIVATE SECURITY CURRICULUM BY NITA

In the year 2006 the industry petitioned the then Directorate of Industrial Training (DIT) to developed guidelines to facilitate training and certification of Private Security Providers. This led to development of Private Security Guard Level I and II curricula.

In 2016, The National Industrial Training Authority (NITA) having been established in 2011, reviewed the Private Security Training curriculum in order to address the gaps identified during implementation and the emerging challenges in Security. Through the CWR STC NITA conducted a Training Needs Assessment exercise whose findings informed development of Qualification Packs, National Occupational Standards, and curricula and review of Assessment Guidelines. Two Qualification Packs were developed, Private Security Officer and Private Security Supervisors. The Process followed in the development of the Private Security Provider qualifications was a participatory and collaborative one involving all key Industry players.

This deliberate process indicates the commitment of NITA in terms of financial and intellectual resources put in place to reform and transform the Private Security Providers Training, Assessment and Certification.

3.0 ANALYSIS OF THE PRIVATE SECURITY LEGAL FRAMEWORK

Appended herewith is a matrix explaining the areas of concern and overlaps in the gazetted regulations vis a viz the Industrial Training Act:

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
1.	Training	Section 9 (j) Functions of the Authority shall be to— (j) set standards and accredit institutions offering training of security service providers and prospective		3 A (i) accrediting institutions engaged in skills training for industry; (1A) 7A. Permission to train 1. An employer who wishes to carry out training under this Act shall first obtain the written permission of the Director-General to do so.	The National Industrial Training Authority (NITA) is already charged with regulating Industrial Training nationally, hence the training of security guards should be done within the industrial Training Act.

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
		<p>security service providers to ensure a high quality of training and in particular with regard to—</p> <p>i. the accreditation and withdrawal of the accreditation of persons and institutions providing security training;</p> <p>i. the participation in the activities of other bodies or persons entitled by law to set standards in respect of training of private security service providers or bodies</p>		<p>1.No permission shall be granted under this section unless the trainer who is to carry out the training has been approved and registered for purposes of training under this Act.</p>	

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
		entitled to formulate, implement or monitor skills development plans for the private security services industry;			
2.			<p>Requirement for Mandatory Security Training;</p> <p>19. (1) Every employer shall ensure that every person employed as a private security provider —</p> <p>a. has a valid certificate of security training issued by the Authority;</p>	3A (g) assessing industrial training, testing occupational skills and awarding certificates including Government trade test certificates;	To ensure career progression of the private security beneficiaries, certification should be done by NITA as already mandated, recognized, registered and accredited to offer national qualifications. NITA is therefore best suited as training of private security providers as envisaged in PSRA Regulations and Act. This is currently being undertaken within the scope of Industrial Training
		23 (2d). Requirement for Registration (2) An individual shall be eligible for registration as an individual private security provider if that person—	19 (1b) undergoes an annual mandatory security training at an institution licensed by the Authority; and. (c) undergoes an annual mandatory security training assessment at an institution licensed by the Authority	refer to 3A and 7c above 3A (g) assessing industrial training, testing occupational skills and awarding certificates including Government trade test certificates	Licensing is a separate regulatory function compared with accreditation of industrial training and assessment centres as defined in the Industrial Training Act which is the sole mandate of NITA.

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
3.		<p>52 (c) 61. Private Security Fidelity Fund</p> <p>1. There is established a Fund to be known as the Private Security Fidelity Fund which shall vest in and be operated by a Board of Trustees under the control of the Cabinet Secretary.</p> <p>(3) The purpose of the Fund shall be to sustain the operations of the</p>	<p>30. The Fund shall be used —</p> <p>(b). for organizing training workshops and seminars for private security providers; and</p>	<p>3A (b) assessing and collecting industrial training levy and fees;</p> <p>5C. Disbursement powers of Director-General</p> <p>1. There is established a fund in respect of each industry, as may be determined by the Board, to be known as the Training Levy Fund.</p> <p>1A) There shall be paid into the Fund all industrial training levy contributions for each industry, as may be determined by the Board.</p> <p>7A. Permission to train</p> <p>An employer who wishes to carry out training under this Act shall first obtain the</p> <p>1. written permission of the Director-General to do so.</p> <p>No permission shall be granted under this section unless the trainer who is to carry out the training has been approved and registered for purposes of training under this Act.</p>	<p>Industrial Training Act Cap 237 (2011) and the Single Levy Order 2007 provide a legal obligation that all employers pay industrial training levy to NITA and subsequently benefit from training reimbursement for both up skilling and re-skilling sub functions</p>

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
		<p>Authority and to organize training workshops or seminars for private security providers.</p>			
4.			<p>(2) Every employer under subsection (1) shall have —</p> <p>a. within its business premises, a training facility of the size and layout set out in Guidelines as prescribed by the Authority; and</p> <p>b. a designated training officer.</p> <p>(3) Notwithstanding paragraph (2), an employer who does not have a training facility shall provide evidence of partnership with a licensed training institution.</p>	<p>6. Permission to employ apprentices (1) No person shall employ an apprentice without having first obtained the written permission of the Director-General so to do; and the Director-General's permission shall specify the maximum number of apprentices who may be employed at any one time by the person to whom the permission is given. (2) No permission shall be given under this section unless the person applying therefor satisfies the Director-General that his establishment offers reasonable opportunities for the proper training of the apprentice or the number of apprentices proposed to be employed by him.</p> <p>"apprentice" means a person who is bound by a written contract to</p>	<p>Trainings that takes place within the employer's premises falls within the scope of industrial training and therefore subject to regulation by NITA through apprenticeship and indentured learnership processes.</p>

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
				<p>serve an employer for such period as the Board shall determine with a view to acquiring knowledge, including theory and practice, of a trade in which the employer is reciprocally bound to instruct that person;</p> <p>7(1) Permission to employ indentured learners (1) No person shall employ an indentured learner without having first obtained the written permission of the Director-General so to do; and the Director-General's permission shall specify the maximum number of indentured learners who may be employed at any one time by the person to whom the permission is given.</p> <p>(2) No permission shall be given under this section unless the person applying therefor satisfies the Director-General that his establishment offers reasonable opportunities for the proper training of the indentured learner or the number of indentured learners proposed to be employed by him.</p>	

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
5.			<p>(5) Subject to section 9 (j) of the Act, the Authority shall prescribe a standard curriculum and assessment standards for private security training which shall be undertaken at every training institution.</p>	<p>3A (d) developing industrial training curricula; (e) integrating labour market information into skills development; (f) harmonizing curricula and certificates of competence; (j) associating or collaborating with any other body or organization within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established;</p>	<p>Curriculum development by NITA is a collaborative and participatory process that involves all stakeholders in the relevant the industry. The process followed is as outlined below:</p> <ol style="list-style-type: none"> 1.Sourcing for labor market information through Training Needs Assessment (TNA) or from Kenya Integrated Labor Market systems (KILMS) domiciled in the Ministry of labour. 2 Through the relevant sector training committee develop qualification packs and National Occupational Standards to minimize the mismatch between the needs of the industry and the training programs 3.Development of the curriculum and assessment guidelines 4.Adoption of the curriculum by the relevant Sector Training committees 5.Public participation through validation forum, Newspaper publications and gazette notice 6Approval by the NITA Board 7. Gazettement 8. Piloting of the curriculum 9. Monitoring, Evaluation and Review 10. Full implementation 11.Review after 4 years

Sno.	Function	PSRA ACT	Regulations	Industrial Training Act	Recommendations
					<p>12.This is the process that has been followed in the development of the Private Security Officer and Private Security supervisor curricula</p> <p>13.All NITA qualifications are national qualifications recognized by KNQF</p> <p>In addition to development of curricula ,NITA adopts and accredits curricula developed by industry for use by the wider industry</p>

From the above Matrix, the role of NITA and Private Security Regulatory Authority(PSRA)is clear. While PSRA mandate is to regulate Private Security Services Industry, NITA regulates Industrial Training nationally

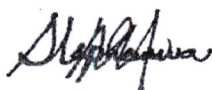
4.0 POSITION ON THE ABOVE STATUTES

The Private Security (General) Regulations 2019 should be reviewed and operationalized to complement functions of the existing Industrial Training Act CAP 237 as demonstrated in the analysis above.

5.0 REQUEST TO PARLIAMENT

The National Industrial Training Authority humbly requests Parliament to:

1. Consider reviewing the Private Security Regulation Act 2016 on training sections to complement and eliminate duplications with the Industrial Training Act CAP 237.
2. Strongly consider including NITA as a member of the PSRA Board as established in Section 11 of the PSRA Act since NITA is a key stakeholder in the training of Private Security Providers by virtue of the existing functions and string tripartite partnerships including both employer and employee unions.



Stephen Ogenga
Ag. DIRECTOR GENERAL

② SUSAN
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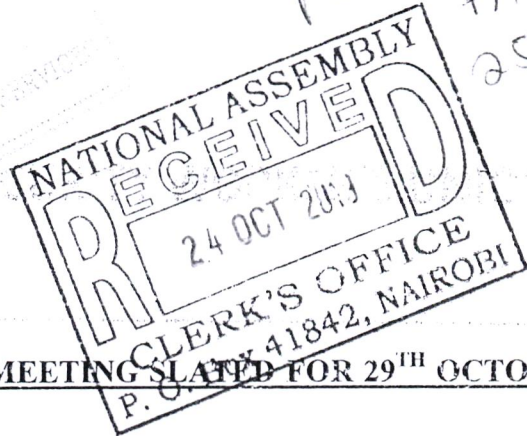
KENYA NATIONAL PRIVATE SECURITY WORKER'S UNION

"Sauti ya walinzi"

Proudly Affiliated to COTU (K) and UNI Global Union Africa

Nairobi, Monday 22nd October 2019
Our Ref: KNPSWU/CNA/10/019

Mr Michael Sialai,
CBS Clerk of The National Assembly,
P.O Box 41842-00100,
Parliament Buildings,
NAIROBI.



Dear Sir,

RE: REQUEST TO BE ENJOINED IN THE MEETING SLATED FOR 29TH OCTOBER 2019

We refer to the above captioned subject.

We make reference to the communication between your committee and the authors of the above letter drawn from various associations dated 11th October 2019 and your replies dated 4th October 2019.

We are a legally registered Trade Union, affiliated to COTU (K) and Uniglobal Africa, with a mandate to represent the interests of the unionisable workers in the Private Security Industry in the Republic of Kenya.

We have been the engine behind the reform agenda in the Private Security Industry and we feel that if left behind in these ongoing discussions, it will have a serious impact on our general membership of over six hundred thousand (600,000) workers engaged in the provision of the Private Security and as such we are **NOT** stakeholders but stakes.

Briefly, I want to refer your committee to 2004 where under the late Professor George Saitoti chairmanship, when the Government went through the same challenges when the frame work was supposed to be introduced, it was fought and never saw the floor of the parliament by the same excuses that are repeating themselves. Something that we must not allow again.

Our members have already suffered a lot due to lack of a clear framework in the sector since independence save for Jubilee Government i.e Private Security Regulation Authority 2016. The challenges ranges from underpayments, lack of enforcement, proper training, negative attitudes, disparities and corruption in tendering and biddings which has put the lives of the above

All correspondence to the office of the National General Secretary

mentioned workers into serious social and economical impediment/disadvantaged in terms of their general welfare.

Having explained the above, we believe your committee will see the need and magnitude of involving the wearer of the shoe (guards) in the matters surrounding their environment of work and their welfare in general.

We purpose therefore to be part of this meeting on the material day both your advice and guidance withstanding.

We look forward to your positive response.

Yours faithfully,

Kenya National Private Security Workers' Union



Isaac G M Andabwa

NATIONAL GENERAL SECRETARY.

CC

The Chief Executive Officer,
Private Security Regulatory Authority,
NAIROBI.

The Cabinet Secretary
Interior & Government Coordination
NAIROBI.

The Security Providers' Consortium
NAIROBI.

28th October 2019

KNPSWU REVIEW ON:-

SUBMISSIONS ON RESOLUTIONS OF SECURITY INDUSTRY ASSOCIATIONS MEETING HELD OM 3RD TO 5TH OCTOBER 2019 AT NAIVASHA.

We wish to submit that the reforms and the private security industry in Kenya remains a long process lasting over 20 years, from the error of Former Presidents Moi, Kibaki and now current President Uhuru Kenyatta.

Inputs from a variety of stakeholders include local and international forums. Contributing specified material to improve progression of private security industry in Kenya. Kenya National Private Security Workers Union has remained key lead agency which represent legitimate voice of the guards formerly watchmen. Invitation, lobbying and supervision of various stakeholders all over the world remained local, National and international responsibility of our union. Some of the associations attending the Naivasha meeting were well represented in our seminars and workshops as platforms which led to the establishment of the 2016 private security regulatory act, now housing Private Security Regulatory Authority. We commend our parliament for having fully participated and the final presidential ascend to the act. This authority further established the private security regulatory board which gave birth to the private security regulations currently undergoing enforcement through the able leadership of the current CEO. It is therefore surprising that major stake holders that brought this important reform agenda on the table through a long process were not invited to the Naivasha meeting and their ideas are being questioned without giving them a chance to be heard. The changes are being rushed without a properly constituted review process that is inclusive.

The private security regulatory authority must be allowed to implement their working regulations which must form a basis for ongoing evaluation to warrant new arguments based on progressive results. The Naivasha meetings appear to condemn the regulations on arrival, which is partly their own product going by some members attending the retreat. The role of the associations which have been operational in Kenya before the Regulatory Authority, was born was to perform among other roles what the regulatory is currently doing. It is therefore not clear what these associations were doing all this time.

Government Revenue

Professional reforms which is the core mandate of the private security industry and whose advocacy platforms the Naivasha retreat appear to anchor going by the objective registrations of their associations in Kenya among other important functions borders on the obligation to pay taxes, and professionalize taxation documentation for the industry personnel and their management cadre as the advisory moral and ethical duty of the said associations.

It is embarrassing that the workforce in this industry at all levels pointing to one million people are paid without authorized payment documents, as a result the government losses millions in taxes including Pay As You Earn(PAYE), National Hospital Insurance Fund(NHIF), National Security Social Fund(NSSF).

Cooperative development in Kenya is a serious agent of financial credit facility component in the social development of any worker and yet firms who form the employer category for these workers, create things that look like Sacco's and force their employees to contribute which is irregular; we need an independent Sacco with proper structures to be supervised by the ministry of cooperatives to deal with private security workers. Walinzi National Sacco has been established to occupy this space and compete with other Sacco's in this league. His Excellency the President as private security worker number one is already a member; we thank him for his gesture.

Professionalism in development entails respect and implementation of presidential executive orders which touches on upscaling minimum wage from time to time on workers, guards included. His Excellency the president during the year 2016 at State House addressing over 2,000 guards and private security firms drawn from all over Kenya pronounced himself on the need to implement minimum wage for guards in Kenya, but to our surprise only Kenya National Private Security workers union has been agitating for the implementation of the said presidential decree in vain due to lack of professional support from the Associations, Some of whom are agitating for postponement of the implementation regulations by the Private Security Regulatory Authority due to conflict of interest.

Our focus has remained on the welfare of the **guard** as a Kenyan who must enjoy a full scope of human rights assigned to him by the state among others which are compulsory. The welfare of the guards cannot be guaranteed by

members of Associations who have never guarded anyone or any property and there is a clear disconnect between them and the environment surrounding working stations of guards in this industry; this is why the associations sitting in Naivasha are pushing for another five year delay in the implementation of the working regulations for the guards, which regulations in our view have delayed for too long.

Compliant firms

Our union wish to take this opportunity to appreciate four private security firms in Kenya which are rated best compliant firms of the year although there headed by foreigners and they operate on international human standards.

These compliant firms have formed a consodium as a lead agency of employers on private security industry, we ask other local firms to take their exemplary performance and emulate them; they were not represented in the Naivasha meeting as well.

Duplication of committees

The Naivasha resolutions propose so many committees to do more or less what is legally assigned to the private security regulatory authority as a way of rendering the Authority irrelevant by usurping her duties through back door by forming amorphous bodies to isolate the Kenyan Guard from reaping full benefit of his/her labor, as evidenced by the payment practice of security Guards employers who pay salaries that don't reach the guards in good measure for a responsible livelihood.

Training

The union wishes to warn opponents of the reforms going on in the private security industry that Kenyan who work as private security guards should not be equated to monkeys who are incapable of accommodating and translating knowledge in to skills for performance. We can accommodate intellectual drive of any learning including handling all forms of tools of trade in the private security industry, primarily to detect, manage and deter any threat to life and property.

The professional associations are on record for pronouncing alarmist and scare crow sentiments that guards will be carrying guns like eggs and bags. We as the union emphasize on training guards to handle detective and deterrent gadgets in

different forms of assignments. Guns may not be required in all the assignments just like traffic police officers don't carry guns like their colleagues in other public assignments. We support a few suggestions in the Naivasha retreat which allow the Government to fast track training facilities in line with imparting industrial skills for the private security workers.

Timeline

We recommend peacemeal progressive extension of time depending on need, demand and merited pressure of work input and output by authorized government bodies through private security regulatory board, private security regulatory authority, ministry of labor, private security firms relevant associations, training facilities both public and private including TVET, COTU, FKE, International Employers' Associations and NITA as well as experienced workers in military, police and other security intelligence personnel. More attention should be extended to international private security stakeholders including, ILO and UNIGLOBAL as well as others in that league.

1 @ Clerk
25/10/19

clerk@parliament.go.ke

Zimbra

PRIVATE SECURITY REGULATIONS 2016

2 Susan
Please deaf
FA 25/10/19

From : Julius Githiri <jagithiri@ipsskenya.com>

Fri, Oct 25, 2019 06:30 AM

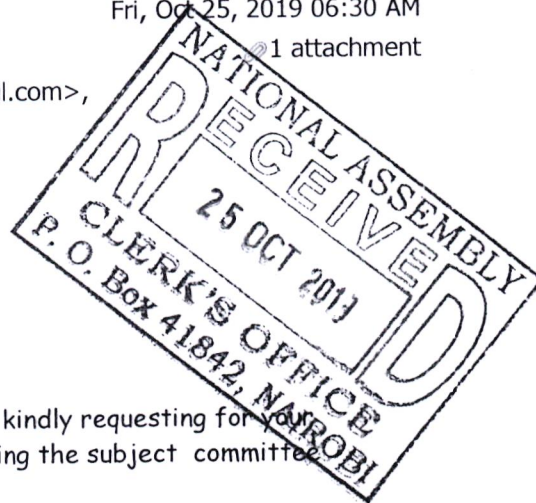
Subject : PRIVATE SECURITY REGULATIONS 2016

1 attachment

To : clerk@parliament.go.ke, susan maritim <susan.maritim@gmail.com>, jimale bishar2 <jimale.bishar2@gmail.com>

Reply To : jagithiri@ipsskenya.com

**CLERK OF THE NATIONAL ASSEMBLY
P.O. BOX 41842, 00100
NAIROBI.**



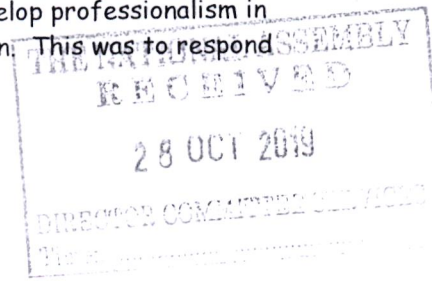
COMMITTEE ON DELEGATED LEGISLATION – 29TH OCT, 2019

I the undersigned, who is also the current chairman of NACADA, is kindly requesting for approval to attend and participate, as an independent observer, during the subject committee meeting.

Institute of professional security studies (IPSS), is an independent security management training institution that has partnered with the International Leadership University (ILU), JP Examinations (UK) and Opticom (UK).

Overview

The IPSS is founded with the vision, commitment and determination to develop professionalism in the management of security operations, security training and its certification. This was to respond to the need for:-



- Professionalising the private industry, to align with the PSR Act 2016
- Professional development through a structured career path
- Alignment with the Kenya National occupation framework
- Need for specialized security skills and competences
- International benchmarking
- unrivalled service delivery in a dynamic security environment - due to prevailing Risks and threats.
- Enhancing skills on enterprise risk management

We also note that the Government has indentified youth unemployment as the major threat to the stability and prosperity in Kenya and hence Kenya's Vision 2030 clearly states the governments' desire to create a safe and secure Country.

The President, Uhuru Kenyatta, in his latest speech, has underlined the skills mismatch in the job market and need to upscale informal jobs into formal jobs.

IPSS as an independent security training organization has the objective of meeting the ever increasing demand for Security Certification, standards, education and recognition of those professionals employed in the Private security Industry. It aims at providing a structured career growth for all those employed in the industry.

IPSS's scope in security certification is broad and includes all persons working in the private security industry within and outside Kenya. The scope is extended to technology providers, door supervisors, CCTV operators, associations and other non security professionals/persons external to the private security industry who feel the qualifications available may benefit their employment or personal professional development.

The Institute has also provided expertise in designing policies and procedures for Recognition of Prior Learning and has developed a guard classification system for a structured career

path.

We are also partnering with SCHUHFRIED from Austria to introduce locally the world wide computerized standards for psychological assessments for effective digital testing to identify the right skills for key sectors/ assignments.

PRIVATE SECURITY INDUSTRY

The Private security Regulatory Act 2016 came into effect on 3rd June 2016. The Act defines Private security services Industry as **"the people and activities involved in the provision of private security services.** The following definition is worth noting:-

"private security services" means any of the following services whether performed by an individual or firm:-

- (a) installation of burglar alarms and other protective equipment;
- (b) private investigations and consultancy;
- (c) car tracking or surveillance;
- (d) close-circuit television;
- (e) provision of guard dog services;
- (f) security for cash in transit;
- (g) access control installation;
- (h) locksmiths; or
- (i) any other private security service as may determined from time to time by the Board by a notice in the Gazette.

Over the years, the private security industry has grown substantially and is now classified as the fastest growing sector in Kenya. It is estimated that nationally there could well over 2,000 security providers and between 300,000 and 400,000 Security Guards and other related employees i.e. Bouncers, CCTV controllers, installers, close protection, cash in transit, drivers, dog handlers etc working in the industry at all levels.

IPSS PROFILE

The Institute of Professional Security Studies (IPSS) in partnership with ILU - International Leadership University and JP International (UK) is providing **professional security management training and consultancy.** We are currently offering local and international curriculum for the private security industry.

IPSS is the preferred choice of International security training and certification program for the security industry. The security courses are intended to impart skills and knowledge necessary in order to meet the demanding challenges brought about by insecurity within Nairobi County.

The Institute is committed to developing and promoting the practice of security as a professional career through the provision of harmonized and unified security management training as well as a structured professional career development program. This is aimed at offering the relevant skills and knowledge to enable all of us be proficient in crime prevention and security risk management.

IPSS is passionately dedicated to encourage **excellence, standards, quality** and **ethics** in the practice of the security profession through the enhancement of **education, knowledge, and skills.**

IPSS intends to ensure that the private security industry provides a career and not jobs.

This is properly aligned with the Private security Regulatory Act 2016 and Occupational safety Act 2007.

IPSS is therefore dedicated to:

- Developing comprehensive range of security educational program(s) to meet the challenges of a dynamic security environment.
- Enhance security standards, policies, procedures, ethics and competence in Security risk management
- Structure standards for the in house security team e.g. Secure ID's, tracking and monitoring.
- Improving the quality of professional security process and procedures especially as it relates to Community/business security.

- Developing partnership towards improved security performance, assessments and audit of the security function.
- Enhancement of the Emergency preparedness program.
- Facilitate the development of corporate security policy and strategies in Counter Terrorism, crisis and disaster management i.e. contingency planning.

Best regards,

Lt.Col.(Rtd) Julius Githiri
Executive Director



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