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GOVERNMENT NOTICE

MINISTRY FOR INTELLIGENCE SERVICES

No. R. 1505
16 October 2003

MINISTRY FOR INTELLIGENCE SERVICES

Notice in terms of section 37 of the Intelligence Services Act, 20,02 (Act 65 of 2002) read in conjunction with section 101(3) of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996).

The Minister for Intelligence Services approved and issued the Regulations of the Intelligence Services on 22 August 2003 in terms of Section 37(1) and (5) of the Intelligence Services Act, 2002 (Act 65 of 2002).

The following regulations in the Schedule, which are isolated in the footnote', apply to the members of the Public and were also approved on 22 August 2003 and are hereby issued with effect from 16 October 2003:

*1 FOOTNOTE

1. **Chapter 5:** Recruitment, Selection, Appointment and Termination of Service.
2. **Chapter 6:** Cadet recruitment and training.
3. **Chapter 23:** Veterans Association.
4. **Chapter 24:** Restrictions of former members.
5. **Chapter 26:** Security screening.

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CHAPTER I

GENERAL PROVISIONS

1. PRELIMINARY

(1) Short Title and Commencement

These Regulations are called the Intelligence Services Regulations, 2003.

(2) Definitions

(a) These Regulations must be read in conjunction with the Intelligence Services Act.

(b) In these Regulations, unless the context indicates otherwise -

"Academy" means the South African National Academy of Intelligence established by section 5 of the Intelligence Services Act, Act 65 of 2002;

"access control" means the process by which access to a particular area is controlled, or restricted to authorised personnel only;

"Act" means the Intelligence Services Act, Act 65 of 2002;

"active members" means members who are employed by the Intelligence Services or the Academy, as the case may be, on a permanent basis and therefore exclude retired members;

"affirmative action measures" includes but is not limited to measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the Intelligence Services or the Academy, as the case may be;

"applicant" means a person or a member who applies for employment and/or another post in the Intelligence Services or the Academy, as

the case may be;

"appointment" means employment;

"approved establishment" means the posts that the Minister has approved to carry out the core and support functions of the Intelligence Services or the Academy, as the case may be;

"basic salary" means the salary notch applicable to a member allocated per job level range within an occupational band according to the remuneration management system approved by the Minister;

"benchmark" means the initial evaluation of a job within the Intelligence Services or the Academy, as the case may be;

"black people" is a generic term, which means Africans, Coloureds and Indians;

"cadet" means a young person from a recognised tertiary institution or high school, recruited to study at the Academy but who is currently not a member;

"calendar month" refers to all the days in a month including weekends and public holidays, from the first to the last day of the month;

"CEO" means the Head of the Academy;

"child" means a member's natural child, or a stepchild or legally adopted child, who has not reached the age of 21 years, or a child who has been placed in the legal custody, recognised by law, of the member, his or her spouse or partner;

"communication security" means direct or indirect communication;

"competence" means the blend of knowledge, skills, behaviour and aptitude that a person applies in the working environment, which indicates the person's ability to meet the requirements of a specific post;

"consecutive days" means calendar days including weekends and public holidays;

"consultation service" refers to the medical consultation service including a theatre and dispensary that provides in-house services

to persons entitled to OPMED benefits;

"continuation member" means a member, with his or her registered dependants, if any, who retains his or her membership status with OPMED without prejudice or limitation of a continued period of membership in the event of his or her retirement from the Intelligence Services or the Academy, as the case may be, or due to his or her employment being terminated by the Intelligence Services or the Academy, as the case may be, on account of reaching the retirement age, or having been declared medically unfit or due to termination of employment with a severance package, on condition that OPMED membership be retained;

"council" means a Staff Council and Consultation Council established in terms of these Regulations;

"cover member" means a member of the Intelligence Services or the Academy, as the case may be, whose relationship with the Intelligence Services and the Academy is completely concealed and who functions under deep cover for operational purposes in cases where there is a need for extreme liability, danger to life or a high risk for the exposure of countering activities;

"day" means a working day;

"day of rest" with regard to a member who does not usually work on such a day, a Saturday, Sunday or a public holiday, and in the case of a member who usually works on a Saturday, Sunday or a public holiday, any other day on which the member, instead of such a day, is generally exempted from work;

"dependant" means spouse, partner, child or parent in respect of whom the member is liable for family care and support;

- (i) for the purpose of OPMED, "dependant" refers to -
 - (aa) a spouse or partner who is not a member or dependant of another medical scheme;
 - (bb) a child;
 - (cc) a member's child of 21 years and older, for whom the member is liable for family care and support, and who is not a member or dependant of another medical scheme;

(dd) a member's child who is a student at a school or other educational institution within the Republic of South Africa, or a child of a member who is placed abroad for official purposes where the child is in a school or educational institution of that specific country, up to the age of 26 years and who is not a member or dependant of another medical scheme;

(ee) a member's child who is unfit for the open labour market due to a mental or physical disability and who is not a member or dependant of another medical scheme;

(ff) the immediate family of a member in respect of whom the member is liable for family care and support, and who is not a member or dependant of another medical scheme;

(gg) such other person(s) who is (are) recognised by the OPMED management control board as a dependant(s) for purposes of the medical scheme rules;

(ii) for the purpose of resettlement transfers and sessional assistance within the Intelligence Services or the Academy, as the case may be, "dependant" refers to -

(aa) a partner or spouse of a member;

(bb) a child;

(cc) a family member who resides permanently with the member, who is dependent on such a member and who receives a total income that, from all sources, does not exceed the basic social pension;

"designated groups" means black people, women and people with disabilities;

"direct communication" means -

- (i) an oral communication, other than an indirect communication, between two or more persons which occurs in the immediate presence of all the persons participating in that communication; or
- (ii) an utterance by a person who is participating in an indirect communication, if the utterance is audible to

another person who, at the time that the indirect communication occurs, is in the immediate presence of the person participating in the indirect communication;

"Director-General" means the head of any of the Intelligence Services;

"dispute" includes an alleged dispute;

"document" or "documentation" means -

- (i) any note or writing, whether produced by hand or printing, typewriting or any other similar process;
- (ii) any copy, plan, picture, sketch, photographic or other representation of any place or article; or
- (iii) any disc, tape, card, perforated roll or other device in which or on which sound or any signal has been recorded for reproduction;

"employment policy" includes, but is not limited to -

- (i) recruitment procedures, advertising and selection criteria;
- (ii) appointment(s) and the appointment process;
- (iii) job classification and grading;
- (iv) remuneration, employment benefits and terms and conditions of employment;
- (v) job description;
- (vi) the working environment and facilities;
- (vii) training and development;
- (viii) performance evaluation;
- (ix) promotion;
- (x) transfer;
- (xi) demotion;

(xii) disciplinary measures other than discharge; and

(xiii) discharge;

"family care and support" means a liability for financial support enforceable by a court of law;

"family responsibility" means the responsibility of a member in relation to his or her spouse or partner and his or her children and/or his or her parent(s);

"financial institution" means a legitimate registered bank or building society within the Republic of South Africa;

"fixed establishment" means the total number of posts created for the normal and regular requirements of the Intelligence Services or the Academy, as the case may be, and any other such components that are administratively linked to the Intelligence Services or the Academy, as the case may be;

"forum" means the Constituency Forum and Organisational Staff Forum established in terms of these Regulations;

"Guarantee Scheme" means a guarantee issued to a financial institution in favour of a member or a collateral investment made by the Intelligence Services or the Academy, as the case may be, in favour of a member and assigned to a financial institution, to enable a member to obtain a loan for the purpose of buying property without himself or herself having due responsibility;

"gift" means any matter, object, money, reward or favour presented to a member in his or her capacity as a member of the Intelligence Services or the Academy, as the case may be, over and above the salary and benefits payable to the member;

"grade" means the relative value of a particular job reflected by the job weight, which is linked to a salary range in a salary scale used in the Intelligence Services or the Academy, as the case may be;

"grievance procedure" means a process of addressing a complaint and resolving a dispute by a member against his or her supervisor or another member;

"Group Assurance Scheme" means the Intelligence Services' or the Academy's, as the case may be, Group Assurance Scheme constituted and formulated by the Rules of the Group Policy applicable to the Intelligence Services or the Academy, as the case may be;

"Head Office" is defined for the purpose of resettlement transfers as all the offices situated in the greater metropolitan area of a town or city and not an individual headquarters. Transfer from one Head Office to another office in the same metropolitan area must therefore not be regarded as a resettlement transfer;

"health care provider" means all medical and health providers registered with the SA Medical Association and who are entitled to practise in terms of section 17 of the Health Professions Act, 1974 (Act 56 of 1974);

"HIV" means the Human Immunodeficiency Virus;

"housing allowance" refers to an amount payable to a member of the Intelligence Services and the Academy as a fringe benefit to assist him or her to obtain residential accommodation;

"household" is defined as the member and his or her dependants;

"immediate family" means a family member such as a member's father, mother, brother, sister, spouse or partner for whom the member is liable for family care and support and who is financially dependent on the member;

"indirect communication" means the transfer of information, including a message or any part of a message, whether -

- (i) in the form of -
 - (aa) speech, music or other sounds;
 - (bb) data;
 - (cc) text;
 - (dd) visual images, whether animated or not;
 - (ee) signals; or
- (ii) in any other form or in any combination of forms

transmitted in whole or in part by means of a postal service or a telecommunication system;

"inherent requirements of a job" means the requirements determined by the job as well as the competencies needed by a member in order to carry out the job;

"Intelligence Services" means the National Intelligence Agency (NIA) and the South African Secret Services (SASS);

"internal positions" means vacant positions advertised within the respective Intelligence Services or the Academy, as the case may be, to enable the career advancement of active members;

"internal transfer" means the appointment of a member to a new or vacant position, or the transfer to another structure on a permanent basis within the same Intelligence Service or within the Academy;

"interdepartmental transfer" means the permanent transfer of a member from any of the Intelligence Services or the Academy, as the case may be, to another Public Service Department or from one Intelligence Service or the Academy, as the case may be, to another;

"JE Manager" means the Job Evaluation Manager System;

"job evaluation administrator" means a member trained in the job evaluation system and appointed as such within the structure responsible for the evaluation of all the jobs within the Intelligence Services or the Academy, as the case may be;

"job evaluation facilitator" means a member trained in the job evaluation system and appointed by a general manager to represent the relevant structure in job evaluation and related activities;

"job evaluation" means a process of assessing the relative worth of jobs within the Intelligence Services or the Academy, as the case may be, by applying an objective and reliable rating system;

"job weight" means the numerical value assigned to reflect selected characteristics of a job measured by a job evaluation instrument;

"Labour Relations Act" means the Labour Relations Act, 1995 (Act 66 of 1995);

"learnership programme" means learnership programme as defined in

the Skills Development Act, 1998 (Act 97 of 1998);

"leave cycle" means a period of twelve months that starts from the month a member joined the Intelligence Services or the Academy, as the case may be, or in the case of a transferred member, from the date the member joined the Public Service;

"legal practitioner" means a person who is admitted to practise as a lawyer or advocate in the Republic of South Africa;

"level" means salary range or grade;

"manager" means the head of a component, division or unit in the Intelligence Services or the Academy, as the case may be, and any other such components that are administratively linked to the Intelligence Services or the Academy, as the case may be, unless specific reference is made to the positional appointment as manager on the M3 level;

"medical benefits" means benefits to which a member and his or her registered dependants are entitled to, subject to the restrictions imposed by the OPMED rules;

"medical examination" means the medical test of an applicant in order to determine his or her medical status in relation to the requirements of a specific position;

"medical necessity" means the norm to evaluate a health care service in order to determine whether it is medically appropriate and necessary to meet basic needs, appropriate for a given diagnosis or condition and cost-effective for the given condition; appropriate to be delivered in the designated setting, consistent with the benefits and exclusions of the medical scheme, and consistent with the type, frequency and duration of treatment with scientifically based guidelines of medical practice and quantifiable medical value;

"Medical Schemes Act" refers to the Medical Schemes Act, 1998 (Act 131 of 1998), as amended;

"medical scheme contribution" means the monthly amount, exclusive of interest, due by an OPMED member as his or her membership fee as well as for his or her registered dependants;

"medical scheme rules" means the rules of OPMED including those for conducting the business of the scheme (appendixes and schedules) and

any other provision relating to the benefits which may be granted, as well as the contributions due as determined and revised by the OPMED Management Control Board;

"medical test" means any test, question, inquiry or other means designed to ascertain, or which has the effect of enabling the Director-General or the CEO, as the case may be, to ascertain, whether a member has any medical condition;

"medical unfitness" means that currently and for the foreseeable future the member's physical or mental condition is such that he or she cannot maintain a satisfactory level of performance or cannot perform his or her duties except with extreme pain and discomfort, or with treatment or medication that poses a risk to his or her health, and that subject to the member's seniority and training, no reasonable alternative placement exists: Provided that this condition is of such a nature that the efficiency and effectiveness will be adversely affected for an unforeseeable period;

"member", as contemplated in Chapter XVI and for the purpose of consultation, refers to any member of the Intelligence Services or the Academy, as the case may be, who is not a senior member or a member of the labour relations, legal services, internal audit and management services function;

"misconduct" means misconduct as defined in Appendix A of Chapter XVIII;

"NCC" means National Communications Centre as a spending centre of the National Intelligence Services;

"nominee" means a person who is or was, in writing, nominated by a member as a beneficiary with regards to the Group Assurance Scheme benefits;

"official subsidised transport" refers to official transport provided for members of the Intelligence Services or the Academy, as the case may be, who do not have transport to and from work in areas where no other means of public transport exists, to enable them to commute from a central point to and from work;

"OPMED" means Optimum Medical Scheme;

"OPMED management committee" means the committee that is appointed by the Intelligence Services to manage and control the OPMED Scheme;

"OPMED Management Control Board" refers to the persons appointed and/or elected in accordance with the OPMED rules to manage and control the affairs of OPMED;

"orphan" means the child of a deceased member of whom both parents have passed away, and who is classified as such;

"partner" means an unmarried person irrespective of gender with whom the member has a relationship akin to marriage and who resides permanently with the member, sharing common assets;

"people with disabilities" means people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment;

"personnel security" means any condition created by the deliberate creation, implementation and application of security measures in order to ensure that a person who obtains access to classified information and/or restricted premises is security competent;

"physical security" means a condition and/or situation created by the deliberate creation, implementation and application of physical security measures for the protection of lives, property and information;

"political organisation" means a party, body or movement with political aims;

"poor performance" means any performance which is below the appropriate standards arising from any source other than pregnancy or medical unfitness or misconduct;

"pregnancy" means pregnancy, termination of pregnancy and any medical circumstances related to pregnancy;

"probation period" means a period within which a member, who was appointed in a particular position, is evaluated and assessed in order to determine his or her suitability for permanent appointment;

"psychometric testing" means the assessment of an applicant in order to determine the applicant's suitability in terms of personality or task requirement of a specific position;

"public holiday" means any day that is a public holiday in terms of

the Public Holidays Act, 1994 (Act 36 of 1994);

"representativeness" means the extent to which the posts filled on the fixed establishment broadly reflects the composition of the South African population, with reference to race, gender and disability;

"record of poor performance" means any available record of a member's previous poor performance for which he or she was found guilty in terms of Chapter XIX;

"salary range" means a set of salaries that forms part of a salary scale linked to a specific grade and, by extension, a set of job weights;

"salary scale" means a range of salaries from a minimum to a maximum as salary for the Intelligence Services or the Academy, as the case may be, an occupational group or a unit within the Intelligence Services or the Academy, as the case may be, with specific amounts denoted as the beginning and end of salary ranges or a fixed amount or notch;

"SCAB" means the Security Clearance Advisory Board;

"secondment" means the temporary transfer of a member from the Intelligence Services or the Academy, as the case may be, to another Public Service Department, from one Intelligence Service to another, from the Intelligence Services to the Academy or from the Academy to the Intelligence Services;

"security" means any condition and/or situation created by the deliberate creation or implementation and application of security measures in order to protect persons, property or information;

"security clearance certificate" means an official document indicating the degree of security competence of a person;

"security competence" means the ability of a person to act in such a way that he or she does not cause classified information or material from being disclosed to an unauthorised member or person, in this way prejudicing or endangering the security or interests of the Intelligence Services, the Academy or the State;

"security competency investigating officer" means a member of the Intelligence Services designated by the Director-General with the

authority to conduct security competency investigations;

"senior member" as contemplated in Chapter XVI, refers to any member of the Intelligence Services or the Academy, as the case may be, who functions in a post at the level of M3 to M6 and / or the equivalent posts at the S and P level.

"service of documents" means the personal handing over of documents to a member concerned by the procurator or a person assigned thereto: Provided that where all reasonable attempts to effect service have failed, a notice may be left with a suitable person at the member's last known address, or merely left at such premises if no such person is available;

"session duty" refers to parliamentary duty performed at the office of the Minister for the Intelligence Services in Cape Town as required by the Minister from time to time, and in accordance with the Department of Public Service and Administration's policy on session duty;

"spending center" refers to a structures linked to the Agency for administrative, technical and logistical support and whose accounting officer is the Director-General of the Agency, namely, the Ministry for Intelligence Services, the National Intelligence Coordinating Committee, the Presidential Support Unit, the Office of the Inspector-General of Intelligence and the National Communications Centre.

"spouse" means the registered husband or wife of a member to whom the member is married in terms of any law or custom recognised by law in the Republic of South Africa;

"Strategic Executive Management" means Director-General or CEO, as the case may be, Deputy Director(s)-General and general managers within the respective Intelligence Services or the Academy, as the case may be, in terms of Chapter XVI;

"suitably qualified person" means a person qualified for a position as a result of formal qualifications or prior learning, relevant experience or the capacity to acquire the ability to do the job within reasonable time;

"supervisor" means the immediate supervisor of a member or member that supervises the function of the member at a given time;

"Treasury Regulations" means the Treasury Regulations made in terms of the Public Finance Management Act, 1999 (Act 1 of 1999);

"week" means a period of seven consecutive days;

"workplace right" means an entitlement constituted by the applicable legislative framework and practices in the workplace; and

any other word shall have the meaning assigned thereto in the Act.

- (c) In these Regulations, if the context of circumstances so admits or requires or unless otherwise specifically stated, the above-mentioned words and expressions shall have the meanings given to them and words importing, the singular shall be deemed to convey the plural, and vice versa.

(3) Statutory Authorisation

Section 37 of the Act authorises these Regulations.

(4) Scope of Application

These Regulations apply to persons, members, and to institutions governed, in terms of the Act.

(5) Repeal of Regulations and Transitional Arrangements

All Intelligence Services Regulations made and in force under the Intelligence Services Act, 1994 (Act 38 of 1994) including all amendments thereof, are hereby repealed.

- (i) Any matter contemplated under the Intelligence Services Regulations issued in terms of the Intelligence Services Act, 1994 (Act 38 of 1994) that could be contemplated under any provision of these Regulations, must be deemed to have been contemplated under the relevant provision of these Regulations.
- (ii) Despite the repeal of the Regulations, the transitional arrangements set out in Chapter XXVIII must apply.

(6) Exceptional Cases

If circumstances develop which justify deviation from the provisions and measures in these Regulations, the Minister may under stated

circumstances make such determinations, issue directives or approve that alternative provisions and measures be applied.

(7) Official Text

The English text is the official text of these Regulations.

2. DELEGATIONS AND RESPONSIBILITIES

(1) Application of the Regulation

(a) To enable the Director-General or the CEO, as the case may be, to manage his or her Intelligence Service or Academy effectively and efficiently, the Minister must provide the Director-General and the CEO with appropriate powers and authority. For the same purpose, a Director-General or the CEO, as the case may be, must empower members in the Intelligence Services or the Academy, as the case may be, by means of appropriate delegations and authorisations, where necessary.

(b) The Minister must set measurable objectives for the Intelligence Services and the Academy, optimally utilise the Intelligence Services' and the Academy's human and other resources and apply fair labour practices.

(c) The Director-General or the CEO, as the case may be, must set objectives to -

- (i) promote a strong organisational culture that reflects high standards, professionalism and moral integrity; and
- (ii) constantly improve the objectivity, timeliness and accuracy of information and the quality of either its intelligence estimates and/or its core functions, as the case may be.

(2) Delegations

(a) If these Regulations confer a power or impose a duty upon the Minister, a Director-General or the CEO, as the case may be, he or she may, subject to the Act -

- (i) delegate the power to a member or authorise a member to perform the duty; and
- (ii) set conditions for the exercise of the power or performance

of duty.

- (b) The Minister must record a delegation or authorisation in writing and may incorporate it in an employment contract for the Director-General or the CEO, as the case may be.
- (c) The delegation of power by the Minister, a Director-General or the CEO, as the case may be, does not prevent him or her from exercising the power personally.

(3) Responsibilities

- (a) The Minister must uphold the applications and measures set out in these Regulations.
- (b) The Minister may not require or permit a Director-General, CEO, or any other member, as the case may be, to engage in an activity or take a decision in breach of these Regulations.
- (c) A Director-General or the CEO, as the case may be, must-
 - (i) ensure that members within his or her Intelligence Service or the Academy, as the case may be, comply with these Regulations and any other statutory obligations; and
 - (ii) deal immediately and effectively with any breach thereof.

3. CHARACTER OF INTELLIGENCE

- (1) The Intelligence Services must provide evaluated information to ensure the -
 - (a) safeguarding of the Constitution;
 - (b) upholding of the individual rights enunciated in the Bill of Rights contained in the Constitution;
 - (c) promotion of the interrelated elements of security, stability, cooperation and development, both within the Republic of South Africa and in relation to Southern Africa;
 - (d) achievement of national prosperity whilst making an active contribution to globally defined priorities for the well-being of humankind; and the

(e) promotion of the Republic of South Africa's ability to face foreign threats and enhance its competitiveness in a dynamic world.

(2) To fulfil their mandates, the Intelligence Services must ensure that intelligence serves to -

(a) provide policy makers with timeous, critical and unique information to warn them of potential risks and dangers;

(b) identify opportunities in the international environment, through assessing real or potential competitors' intentions and capabilities; and to

(c) assist good governance by providing honest and critical intelligence that highlights the weaknesses of government.

(3) Intelligence must have at least all of the following attributes: accuracy, relevance, predictive capacity, and an element of warning and timeliness.

(4) Effective intelligence requires the essential component of secrecy with a need to be sensitive to the interests and values of a democratic society.

(5) The Intelligence Services and the Academy must recruit intelligent, competitive and motivated individuals of integrity from all sectors of the South African society to become intelligence officers. This requires a multidisciplinary approach where these officers will be recruited from a diversified pool, and an assurance that the rare skill which these individuals have is retained.

(6) The Intelligence Services and the Academy must uphold the principles of integrity, objectivity and credibility. They must strive to be relevant to the maintenance, promotion and protection of national security.

(7) The Intelligence Services and the Academy must be loyal to the State and the Constitutional objectives.

4. PROFILE OF AN INTELLIGENCE OFFICER

(1) Attributes and qualities needed by a member to be successful as an Intelligence Officer include -

(a) faithfulness to the Republic of South Africa and the Constitution;

- (b) obedience to the laws of the Republic of South Africa;
- (c) disregard for a manifestly illegal order;
- (d) respect for the norms, values and principles of a democratic society including the basic human rights of individuals;
- (e) responsibility in the handling of information and intelligence, and the prevention, at all costs, of the unauthorised disclosure of national security interests;
- (f) the ability to facilitate an early warning system to assist policy makers in identifying harmful trends;
- (g) the ability to determine the cause and effect in order to find links in the chain of evidence, discerning between fact and fiction and distinguishing between essentials and non-essentials;
- (h) inquisitiveness, ingenuity, ability to attend to detail and express ideas clearly, correctly, concisely and completely;
- (i) facilitation of other opinions, ways of thinking and behaviour as well as understanding the reason for other people's thought processes and conduct;
- (j) flexibility and open-mindedness;
- (k) principal interests in serving intelligence while displaying moderation with regard to promoting own ambition and aspiring for personal reward;
- (l) compliance with the "need to know" principle;
- (m) integrity, trustworthiness, humanity and compassion;
- (n) strategising, displaying intuition and predictiveness;
- (o) knowledge of practical psychology to interpret an operational situation;
- (p) identification and keeping track of, and advising on political, economic, environmental and social developments nationally and internationally;

- (q) assistance in the development of effective control systems in order to maximise the collection of state revenue and reducing corruption, white-collar crime and mismanagement within state departments and public-sector agencies;
- (r) the ability to facilitate early preventive action and thereby avoiding unnecessary crises and devastating human cost;
- (s) the ability to memorise faces, events and places;
- (t) great patience;
- (u) proficiency in foreign languages in order to conduct operational tasks comfortably and readily;
- (v) courage and the ability to take risks;
- (w) simulating rage, or impatience, or sympathy, without losing control of emotions, hiding real feelings as well as assuming a false appearance, if needed;
- (x) conduct that upholds the integrity of the Intelligence Services or the Academy, as the case may be.

(2) To engender the resolve to have an intelligence officer with the qualities outlined above, the conditions of service of the Intelligence Services and the Academy need to compare favourably with national and international best practices.

5. DRESS CODE

(1) Members of the Intelligence Services and the Academy must be appropriately and suitably dressed for each specific occasion.

(2) The Director-General or the CEO, as the case may be, must implement measures to ensure that members' dress, grooming and personal hygiene are appropriate to the work situation.

(3) It must be the responsibility of supervisors to ensure consistency in compliance with the Intelligence Services' or Academy's dress code policy.

CHAPTER V

RECRUITMENT, SELECTION, APPOINTMENT AND TERMINATION OF SERVICE

1. PURPOSE

The purpose of this Chapter is to specify the -

- (a) requirements and procedures for recruitment, selection, appointment and termination of service in the Intelligence Services and the Academy; and
- (b) the conditions of service applicable to those persons recruited, selected, appointed and/or whose services are terminated in the Intelligence Services and the Academy, except those conditions relating to salaries, allowances and related benefits.

2. APPLICATION OF THE REGULATION

(1) The following are fundamental aspects-

- (a) accessibility - all positions within the Intelligence Services and the Academy must be filled on a basis of competition, and must therefore be advertised openly. Requests to waive advertising procedures and/or to appoint by invitation must be referred to the Director-General or CEO, as the case may be, for approval;
- (b) accountability - the Director-General or CEO, as the case may be, is accountable and the authority for recruitment and selection is vested with him or her;
- (c) equity - measures must be implemented to ensure that human resource practices are free from discrimination, invisible barriers and unjustness, which will impede equal employment opportunities;
- (d) fairness - actions and decisions must be objective, consistent and without prejudice;
- (e) transparency - recruitment and selection processes in the Intelligence Services and the Academy must be open, transparent and subject to internal scrutiny and audit;
- (f) professionalism - recruitment and selection processes must be conducted professionally, competently and depict the highest ethical standards.

(2) Recruitment for rare or scarce skills in the competitive market must require the use of both advertising and headhunting.

(3) Recruitment and selection within the Intelligence Services and the Academy must be guided and informed by a properly instituted human resource plan, derived from the Intelligence Services' or the Academy's, as the case may be, strategic planning processes.

(4) All matters relating to the filling of positions within the Intelligence Services or the Academy, as the case may be, must be coordinated and handled by the structure responsible for recruitment and selection within the respective Intelligence Services or the Academy.

3. REQUIREMENTS FOR APPOINTMENT

(1) Any person may apply for appointment in the Intelligence Services or the Academy, as the case may be, if the person -

(a) is a South African citizen;

(b) is at least eighteen (18) years old;

(c) is mentally and physically fit to perform the functions required by the Intelligence Services or the Academy, as the case may be;

(d) meets the educational standards determined by the Intelligence Services or the Academy, as the case may be;

(e) meets the security requirements determined by the Intelligence Services or the Academy, as the case may be;

(f) is prepared to affirm and uphold the Declaration of Allegiance;

(g) is prepared to undergo training as may be required from time to time; and

(h) is prepared to be subjected to the Code of Conduct for Intelligence Workers, and all applicable regulations and directions of the Intelligence Services or the Academy, as the case may be.

(2) An applicant may not be appointed in the Intelligence Services or the Academy, as the case may be, unless he or she has successfully undergone the required medical testing, psychological testing and any other related assessments and examinations as may at the time of application reasonably be required by the Intelligence Services or the Academy, as the

case may be.

(3) The Director-General or CEO, as the case may be, may, subject to Chapter XV, issue directives on the tests and assessments required for various occupational groups.

(4) An applicant's profile must be aligned with the desired attributes of an Intelligence Officer contemplated in Chapter 1.

(5) The Minister may after consultation with the Director-General or CEO, as the case may be, issue guidelines on the recruitment and appointment of Deputy Director(s)-General, Assistant Director(s)-General, general managers, managers and members on equivalent post levels, and members to be posted to foreign offices.

4. APPLICATION FOR APPOINTMENT

(1) When applying for a position in the Intelligence Services or the Academy, as the case may be, the applicant must -

- (a) duly complete the application form;
- (b) submit satisfactory proof of citizenship;
- (c) submit satisfactory proof of age;
- (d) submit satisfactory proof of having attained the required educational and training standard;
- (e) submit the information as requested to facilitate the security screening;
- (f) submit satisfactory documentary proof of the applicant's matrimonial or partnership status, as well as parenthood of natural or adopted children; and
- (g) any other documentation that may be required from time to time by the Intelligence Services or the Academy, as the case may be.

(2) A member of the Intelligence Services or the Academy, as the case may be, may apply for an advertised post within the Intelligence Services or the Academy, as the case may be, for which he or she is eligible in terms of inherent requirements for the job: Provided that where a post is at a higher level the member must have completed at least a period of one (1) year in his or her current post.

(3) A member who intends to apply for another post must notify his or her current supervisor prior to such an application.

(4) Where members of the Intelligence Services or the Academy, as the case maybe, are headhunted or talent spotted, the headhunting or talent spotting management must inform the management of the affected member: Provided the conditions stipulated in regulation 4(2) are observed.

(5) Whenever an applicant is required to submit a document as proof of a fact and is unable to submit the original or a certified copy of the document, he or she may submit a sworn or confirmed affidavit in affirmation of the fact to be proved and state the reason for the unavailability of the original or certified copy: Provided that the Director-General or CEO, as the case may be, may take steps to verify the contents of such documentation.

5. FILLING OF POSTS

A process contemplated in Chapter II must precede the filling of newly created or existing vacant posts.

6. METHODS OF RECRUITMENT (1) Advertising

- (a) Vacant posts may be advertised both internally within the Intelligence Services or the Academy, as the case may be, and externally, with a specific job level indicated. Preference must be given to members.
- (b) The Director-General or CEO, as the case may be, may waive advertising procedures, and by invitation appoint a person to fill a post according to the provisions contemplated in regulation 8(3).
- (c) The advertisement must specify the requirements and criteria set for the post.
- (d) The structure responsible for recruitment and selection within each of the Intelligence Services or the Academy, as the case may be, must be responsible for the compilation of the advertisement, in consultation with the relevant line management.
- (e) Care should be taken not to include any potentially discriminating criteria in the advertisement of posts.
- (f) The closing date for applications must allow sufficient time for

potential applicants to receive relevant information on the post, and to submit their applications within the given period.

- (g) Applications must be forwarded and registered by the structure responsible for recruitment and selection within each of the Intelligence Services or the Academy, as the case may be. The relevant structure must acknowledge receipt of all applications.

(2) Headhunting

- (a) Headhunting as a method of recruitment may be used simultaneously with advertising according to regulation 6(1).
- (b) Headhunting measures may be used to identify and invite a number of applicants with specific relevant skills, which are not readily available in the open market.
- (c) The Intelligence Services or the Academy, as the case may be, may utilise the services of registered and security-cleared recruitment consultancies to reach a targeted pool of persons, and to enhance the headhunting capacity.

(3) Talent spotting

Talent spotting may be utilised to identify persons with specific talents and skills for recruitment.

7. SELECTION PROCESS

(1) The selection process must consist of the following three (3) phases-

- (a) pre-selection;
- (b) selection, and
- (c) post-selection.

(2) The General Manager responsible for Human Resources must ensure the coordination of the three selection phases and submission of reports to the Appointment and Selection Board for processing.

(3) The pre-selection phase consists of -

- (a) shortlisting;

- (i) this must take place as soon as is possible after the closing date for the submission of applications;
- (ii) the structure responsible for recruitment and selection must conduct a preliminary shortlisting of applicants;
- (iii) the interview panel must meet to plan the selection criteria prior to the interviews.

(b) reference and preliminary security checks on short-listed applicants prior to interviews.

(4) The interview panel provides the requirements and criteria set for the post to all assessment units.

(5) The interview panel must be constituted prior to the commencement of the selection process.

(6) The interview panel must be representative in terms of gender and race, and consist of a member from -

(a) line management;

(b) human resources; and

(c) a member from a component outside the component the candidate is interviewed for.

(7) The selection phase consists of panel interviews and assessments as follows -

(a) panel interviews;

(i) these interviews must take place within a reasonable period after the pre-selection phase has been concluded.

(ii) the overall purpose of the interview is to -

(aa) provide information about the nature of the Intelligence Services or the Academy, as the case may be, and the responsibilities attached to the post;

(bb) elicit information on the applicant's previous experience and qualifications insofar as they relate to the

job requirements;

(cc) assess competence, particularly behavioural attributes and language ability; and

(dd) afford the line manager an opportunity to have personal interaction with the applicants.

(iii) the interviews and/or questions must be based on competencies determined by the Director-General or CEO, as the case maybe.

(b) assessments;

(i) assessment tests must be conducted by trained assessors.

(ii) the assessment process must be competency-based and may include the following tests -

(aa) conventional assessment centre exercises;

(bb) psychometric tests;

(cc) medical tests; and

(dd) job samples.

(8) The post-selection phase consist of -

(a) security screening, that may commence at anytime during the selection process.

(b) Selection and Appointment Board;

(i) A Selection and Appointment Board must be constituted within the respective Intelligence Services or the Academy, as the case may be: Provided that the Minister may determine that a Selection and Appointment Board may be established for a spending center within the Agency, comprising -

(aa) The Head responsible for the Human Resources function;

(bb) The senior manager responsible for coordination of human resources in the spending centre the candidate is interviewed for, where relevant;

- (cc) The Head or a designated member responsible for Internal Security;
 - (dd) The manager of the post to be filled;
 - (ee) A member designated by the Board to be the chairperson; and
 - (ff) The Chairperson of the Staff Council.
- (iii) the functions of the Board are to-
- (aa) receive all selection assessments from the assessment panel;
 - (bb) consolidate recommendations or findings of the various assessment units that conducted the assessments;
 - (cc) to evaluate the recommendations and to select the successful candidate in accordance with requirements and criteria set for the post;
 - (dd) to inform the applicant with regard to the conditions of service applicable to the Intelligence Services or the Academy, as the case may be.
- (iv) the Board must record and submit reasons for its decisions and or recommendations to the Minister, the Director-General or CEO, as the case may be.

8. APPOINTMENTS

(1) The Minister, the Director-General or CEO, as the case may be, must make an appointment after satisfying himself or herself that the applicant meets all the requirements and criteria set for the post, and as recommended by the Selection and Appointment Board.

(2) Where the Minister, the Director-General or CEO, as the case may be, does not accept the recommendation of the Board, he or she must record the reasons for such in writing.

(3) The Minister, the Director-General or CEO, as the case may be, may, by invitation, appoint a person in exceptional circumstances outside the process contemplated in regulation 7. Exceptional circumstances refer to -

- (a) redeployment to resolve personal circumstances, redundancy situations or a member returning from a foreign posting;
- (b) appointment to a new or different position where such appointment forms part of a restructuring process: Provided that redeployment and/or appointment in a new position must be finalised after consultation with the member concerned;
- (c) transfer to a vacant post with a view to meeting employment equity requirements;
- (d) securing a particular person with scarce skills, not readily available in the Intelligence Services or the Academy, as the case may be;
- (e) contract employment contemplated in regulation 12, to address a particular need; and
- (f) where the Minister, the Director-General or CEO, as the case may be, is convinced that such appointment may be in the best interest of the Intelligence Services or the Academy, as the case may be.

9. SECONDMENT

(1) The Minister, the Director-General or CEO, as the case may be, may, on such conditions as may be determined by him or her and with the consent of a member, second such a member to another Public Service Department, any entity or Intelligence Service or the Academy under the control of the Minister for a particular service and/or for a period of time.

(2) The recipient Public Service Department or entity or Intelligence Service or the Academy under his or her control must bear the inclusive costs of secondment, unless the agreement states otherwise.

10. ACTING IN A HIGHER MANAGEMENT POST

(1) The Minister, Director-General or CEO, as the case may be, may appoint a member to act in a higher management post.

(2) A member in a post, one level lower than the vacant post or on an equivalent level to the vacant post or on a level higher than the vacant post, may be appointed by the Minister, the Director-General or CEO, as the case may be, to act in a management post for a period not exceeding twelve (12) months.

(3) The Minister, Director-General or CEO, as the case may be, may appoint a member on a lower level to act in a management post: Provided that -

(a) a suitable member in a post contemplated in regulation 10(2) is not available, and

(b) such an appointment is for a period not exceeding three (3) months.

(4) The Director-General or CEO, as the case may be, must compensate such a member for acting in a higher vacant management post (M-level posts) in the form of an allowance if the acting period exceeds 44 consecutive working days contemplated in Chapter VII.

(5) A member may not act in more than one post at the same time.

11. EXTERNAL TRANSFERS

The Minister, the Director-General or CEO, as the case may be, must approve all external transfers, including transfers from one Intelligence Service to another or to the Academy and vice versa, as the case may be: Provided that transfers on account of public interest may only be approved by the Minister.

12. APPOINTMENT OF CONTRACT WORKERS

(1) A contract must be concluded between the person and the Intelligence Services or the Academy, as the case may be.

(2) The contract of employment must stipulate all the terms and conditions of employment.

13. RE-APPOINTMENT OF FORMER MEMBERS

The Minister, Director-General or CEO, as the case may be, may not re-appoint a former member as a member if -

(a) he or she left the Intelligence Services or the Academy, as the case may be, sooner than the formal retirement age on condition that he or she would not accept or seek re-appointment;

(b) he or she took a severance package on condition that he or she would not accept or seek re-appointment;

(c) the original grounds for termination of service outweigh the need or request for re-appointment; or

(d) the former member left the Intelligence Services or the Academy, as the case may be, due to ill health and is unable to provide recent and conclusive medical evidence of recovery.

14. PROBATION

(1) All new appointments within the Intelligence Services or the Academy, as the case may be, including transfers from other Public Service Departments or Public entities, are subject to a twelve-month (12) probation period, except that the -

(a) Minister, Director-General or CEO, as the case may be, may exempt a person who is transferred to the Intelligence Services or the Academy, as the case may be, from any organ of state if the person concerned; immediately prior to the transfer, served in a permanent capacity in that organ of state; and

(b) the probation period of newly appointed learner-technicians must be equal to the minimum period needed to obtain the minimum educational qualifications or to complete the technical training required by the Intelligence Services or the Academy, as the case may be.

(2) A Director-General or CEO, as the case may be, may extend a probation period for a maximum of six (6) months, if he or she has reason to believe that it will be in the interest of the concerned Intelligence Service or Academy, as the case may be, to do so, according to Chapters XVIII and IX.

(3) A member's permanent appointment maybe confirmed by the Director-General or CEO, as the case may be, if the general manager of a member on probation certifies that the member has, during the period of probation or extended period of probation, complied with the conditions and requirements of the concerned Intelligence Service or the Academy, as the case may be.

(4) A general manager of a member on probation must ensure that -

(a) the member, at the commencement of the probationary period, knows the performance and other requirements for obtaining confirmation of appointment;

(b) the member, on a quarterly basis, receives written feedback on his or her performance and compliance with other requirements;

- (c) if necessary, the member receives training, counselling or other assistance to meet the requirements for confirmation;
- (d) the member receives written confirmation of appointment at the end of the probationary period, if he or she has been found suitable for the relevant post; and
- (e) the member, subject to a procedure contemplated in Chapters XVIII to XX, when dismissal is considered as a result of misconduct, poor performance or medical unfitness, is afforded the opportunity to state his or her case during which process the member may be assisted by a representative: Provided that such a representative must be a member of the Intelligence Services or the Academy, as the case may be, and has the right to accept or refuse to do so.

15. TERMINATION OF SERVICE

(1) The service of a member of the Intelligence Services or the Academy, as the case may be, may be terminated upon -

- (a) the retirement of the member;
- (b) the resignation or voluntary retrenchment of the member;
- (c) death;
- (d) the non-confirmation of a probationary appointment; or on account of
- (e) misconduct;
- (f) medical unfitness;
- (g) poor performance;
- (h) operational requirements;
- (i) public interest;
- (j) absence without the permission of the Director-General or CEO, as the case may be, for a period exceeding fourteen (14) consecutive days;
- (k) absence as a result of other employment;

- (l) security considerations;
- (m) instigation of or participation in a strike;
- (n) imprisonment without the option of a fine; or
- (o) upon failure to meet probation requirements.

(2) The retirement, resignation or voluntary retrenchment of Deputy Director(s)-General, Assistant Director(s)-General, general managers and managers or members in equivalent posts must be noted by the Minister.

(3) Unless the Minister, the Director-General or CEO, as the case may be, determines otherwise, the resignation of a member in respect of whom any hearings, inquiries or proceedings instituted in terms of the Act and these Regulations are pending, may not take effect until the completion of the hearings, procedure or inquiry. If a member resigns, the Director-General or CEO, as the case may be, may deem the resignation as a discharge.

(4) A member may resign voluntarily if he or she has given the Director-General or CEO, as the case may be, at least 30 calendar days written notice of the intention to resign: Provided that the -

- (a) notice period may be reduced by the Minister, the Director-General or CEO, as the case may be, on the request of the member; or
- (b) the Minister, the Director-General or CEO, as the case may be, may accept the resignation of the member at any time prior to the expiry of the notice period without loss to any employment-related benefits that the member would have been entitled to up to the end of the notice period.

16. PROCEDURE APPLICABLE TO MEMBERS ON PROBATION

The procedure contemplated in Chapter XVIII applies to members on probation in the case of disciplinary procedure and Chapter XIX in the case of poor performance.

17. EXIT INTERVIEWS

(1) The structure responsible for human resources must conduct exit interviews with all departing members: Provided that the Director-General or CEO, as the case may be, may nominate any other structure to participate

during the interviews.

(2) The information gathered during the exit interviews must be used to address problems relating to personnel turnover and, where relevant, for security purposes.

(3) Where circumstances dictate, the panel conducting the exit interview may include representation from the structure responsible for internal security.

18. MEMBER RECORDS

The Intelligence Services or the Academy, as the case may be, must keep records of each member and each post on the approved establishment in accordance with the security and confidentiality requirements issued by the Minister as well as the provisions of the National Archives of South Africa Act, 1996 (Act 43 of 1996).

CHAPTER VI

CADET RECRUITMENT AND TRAINING

1. PURPOSE

The purpose of this Chapter is to specify the -

- (a) requirements and procedures for the recruitment and placement of cadets in the intelligence Services or the Academy, as the case may be;
- (b) training period of cadets in the Academy or other recognised training institutions; and the
- (c) conditions applicable to cadets placed in the Intelligence Services or the Academy, as the case may be.

2. RECRUITMENT

(1) The Director-General and CEO, as the case may be, may recruit cadets at institutions of Higher Learning as defined in the Higher Education Act, 1997 (Act 101 of 1997).

(2) The Director-General or CEO, as the case may be, may under exceptional circumstances recruit a limited number of cadets directly from

high schools: Provided that recruited cadets are in Grade 12.

(3) The CEO must establish a committee, responsible for the selection of cadets, comprising-

- (a) the Deputy Head of the Academy;
- (b) a senior manager who performs a human resources function within the Intelligence Services, a spending agency or the Academy, as the case may be;
- (c) a General Manager representing line function;
- (d) a member from the Ministry responsible for Public Relations;
- (e) a senior manager responsible for training in the Academy.

(5) The Intelligence Services or the Academy, as the case may be, may provide study bursaries to recruited cadets, under circumstances determined by the Director-General or CEO, as the case may be, and contemplated in Chapter XIV.

(6) The rules applicable to study bursaries to members of the Intelligence Services or the Academy, as the case may be, must apply to cadets.

3. ASSESSMENTS

(1) Cadets must prior to placement at the Academy, undergo relevant assessment tests and exercises to determine their suitability for placement at the Academy.

(2) The CEO may, after consultation with the Intelligence Services and the NCC, issue directives on the assessment programmes for cadets.

4. ADMITTANCE TO THE ACADEMY

(1) The CEO may issue directives on the -

- (a) qualifying requirements that need to be met by each student for admittance to the Academy;
- (b) training curriculum and relevant learnership programmes for cadets;
- (c) duration of the training programme for cadets.

(2) No cadet may be placed at the Academy without a security screening certificate unless the Minister has issued a temporary clearance certificate in accordance with section 14(6) of the Act.

5. CONDITIONS OF SERVICE

(1) All cadets must be employed on contract during the training period: Provided that the terms and conditions of the contract are determined by the Minister after consultation with the Director-General and the CEO.

(2) A cadet may not be a member of a trade union.

(3) A cadet is not a member as defined in the Act.

6. PERMANENT EMPLOYMENT AND PLACEMENT

(1) A cadet may be appointed in an Intelligence Service or the Academy, as the case may be, after successful completion of the learnership programme.

(2) For permanent employment within the Intelligence Services or the Academy, as the case may be, a cadet must comply with the recruitment, selection and appointment requirements contemplated in Chapter V.

(3) For purposes of placement, a cadet must have successfully undergone competency assessment tests and a security clearance test according to the provisions of Chapter V.

(4) The CEO must establish a selection board to consider the various assessment reports, including the learnership results, comprising -

(a) Deputy Directors-General responsible for core and human resource function within the Intelligence Services or a spending center as the case may be;

(b) the Deputy Head of the Academy;

(c) general managers responsible for the relevant core functions and human resources;

(d) the Chairperson of the Staff Council.

7. EXIT PROCEDURE

- (1) A cadet who does not -
- (a) comply with the requirements for appointment in the Intelligence Services or the Academy, as the case may be;
 - (b) successfully complete the prescribed courses at the Academy; or
 - (c) qualify for placement within a specific post, in the Intelligence Service or the Academy, may be placed as follows -
 - (i) within the Public Service;
 - (ii) within another institution determined by the Director-General or CEO, as the case may be, or
 - (iii) in a cover environment on contract:

Provided that if a cadet does not meet the academic criteria for admittance, he or she must re-register for the cadet programme within a period of one (1) year.

(2) Notwithstanding the provisions of regulation 7(1), the CEO may terminate the contract of a cadet who does not meet the requirements contemplated in regulation 7(1) or in terms of Chapters XVIII or XIX according to procedures applicable to members on probation or in terms of Chapter XX.

(3) The CEO may accept a cadet's request for termination of the contract.

8. PROBATION

After appointment of a cadet as a member in the Intelligence Services or the Academy, as the case may be, he or she must be on probation for a period of twelve (12) months according to the provisions contemplated in Chapter V.

CHAPTER XXIII

VETERANS ASSOCIATION

1. PURPOSE

The purpose of this Chapter is to provide a regulatory framework for

the formation of a Veterans Association for former members who would like to serve the Association.

2. APPLICATION OF THE REGULATION

(1) The formation of a Veterans Association must be according to the "Intelligence Officer for Life" principle.

(2) The Veterans Association must represent the interest of its members at national level.

(3) The Veterans Association, the Intelligence Services and the Academy must establish and maintain a close relationship with each other.

(4) The Veterans Association must promote comradeship and social interest among the members of the Association.

(5) The Veterans Association may not discriminate against any member of the Association on one or more grounds, including race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV-status, conscience, belief, political opinion, culture, and language.

3. HEADQUARTERS

The seat of the headquarters of the Veterans Association must be determined by the Executive Committee contemplated in regulation 9.

4. LANGUAGE

(1) English must be the official language.

(2) Affiliated groups may decide which language(s) they must use within the groups: Provided that all correspondence is conducted in English.

5. PATRON

The Minister or a person delegated by the Minister must act as the Veterans Association's patron.

6. MEMBERSHIP OR AFFILIATION

(1) Membership to the Veterans Association is voluntary.

(2) A former member of the Intelligence Services or the Academy, as the

case may be, or the widow or widower of a retired member or groups of retired members, may obtain membership without any restriction on location whether inside or outside the borders of the Republic of South Africa: Provided that such a former member was not discharged from the Intelligence Services or the Academy, as the case may be, due to misconduct contemplated in Chapter XVIII or poor performance contemplated in Chapter XIX.

(3) Membership or affiliation may be granted to individuals and groups who apply in writing to the Veterans Association Board.

(4) A minimum of ten (10) former members of the Intelligence Services, who comply with the criteria contemplated in regulation 6(2), may affiliate with the Veterans Association as a group.

(5) If former members, regardless of the reason, prefer not to join an affiliated group, the Association must accommodate such persons as members: Provided that -

- (a) they comply with the criteria contemplated in regulation 6(2);
- (b) such members accept that they must forgo the social togetherness and support that are characteristic of affiliated groups; and
- (c) that they do not have the right to vote at the annual or any special general meeting.

7. TERMINATION OF MEMBERSHIP

Membership of an affiliated group or as an associate member may be terminated after a notice period of 30 consecutive days if -

- (a) such an affiliated group or individual terminates membership in writing at a date prior to the date the affiliation/membership fee is payable;
- (b) an affiliated group or individual continually fails to pay the affiliation/membership fee after a written reminder by the National Board;
- (c) a newly registered affiliated group or individual fails to pay the affiliation/membership fee;
- (d) it was found after an investigation that the Association was dishonoured or embarrassed by an individual member or affiliated group's conduct to the extent that the objectives of the Association

were prejudiced.

8. MEMBERSHIP OR AFFILIATION FEE

(1) An affiliation fee for affiliated groups and individuals must be determined annually at a general meeting. Associate members must be assessed individually on the same basis as members of affiliated groups and fees are payable in advance.

(2) It is the responsibility of the National Board to revise the affiliation fee annually.

9. COMPOSITION OF THE VETERANS ASSOCIATION

(1) National Board

(a) The Association must be governed and managed by a National Board consisting of -

- (i) a chairperson;
- (ii) a vice chairperson;
- (iii) a secretary;
- (iv) a treasurer;
- (v) the chairperson of each affiliated group (ex-officio members);
- (vi) a maximum of two (2) co-opted members who must be members of the Association;
- (vii) a manager whose responsibility incorporate the Veterans Association within the Intelligence Services.

(b) The election procedures are as follows -

- (i) notice of the annual general meeting, the date, venue and time must be given to affiliated groups and associate members at least three (3) months in advance of the meeting;
- (ii) the notification must include a nomination form;
- (iii) on receipt of the notification, affiliated groups must

arrange for their own annual general meeting to take place at least 30 consecutive days prior to the annual general meeting of the Association -

(aa) candidates must be nominated for the respective positions in a manner decided upon by the affiliated group itself;

(bb) nominees must accept their nomination in writing and this must reach the secretary of the National Board not later than four (4) consecutive days prior to the date of the annual general meeting;

(cc) all valid nominations for the election of the respective positions must be presented at the annual meeting and the election of members to the National Board must be made by means of secret ballot.

(2) Executive Committee

(a) The Executive Committee must consist of a chairperson, a vice chairperson, a secretary, a treasurer and an additional member elected by the National Board for this purpose.

(b) It is the responsibility of the Executive Committee to ensure effective daily functioning of the Association. Their functions must include addressing of general enquiries, processing membership applications and to providing approval to the treasurer of the National Board for ongoing expenses.

(c) The Executive Committee may act on behalf of the Board for the day-to-day managing of the Association: Provided that the Committee reports to the Board on all decisions taken.

10. FUNCTIONS OF THE NATIONAL BOARD

The Board is responsible for -

(a) annual planning;

(b) meeting objectives set out for the Association;

(c) the execution of objectives and directives decided upon at the annual general meeting;

- (d) written communication of decisions and directives to all affiliated members;
- (e) regular meetings;
- (f) assuring that proper records are kept of decisions taken at such meetings;
- (g) generating donations and affiliation fees and ensuring that proper record is kept of all income and expenditure according to sound financial principles and as determined by the Minister from time to time.

11. AFFILIATED GROUPS

Affiliated groups must promote the general welfare and communal spirit of their members, including social needs and any other need arising from sickness or personal circumstances. In addition they must, in a spirit of cooperation support other affiliated groups and the Board of the Association.

12. DISBANDMENT OF THE ASSOCIATION

- (1) The annual general meeting or a special general meeting may, if convened and constituted for this purpose and by a majority vote, decide to disband the Association and dispose of its assets.
- (2) If an annual general meeting cannot be convened, the Board may be convened, or should the Board fail to convene, the Executive Committee may, on behalf of the Board address a notice to all affiliated groups in which the intention and reasons to disband the Association are set out. The notice must be accompanied by ballot papers to enable members to vote on this aspect.
- (3) A return date of at least 21 consecutive days, calculated from the day on which the notice was posted or otherwise issued, must be set as return date for the ballot papers. Should the majority of the returned votes be in favour of the disbandment, the Board or Executive Committee, according to the circumstances, may disband the Association after all debts have been paid.
- (4) The National Board and/or the Executive Committee, as the case may be, must decide how to dispose of any remaining funds or assets of the Association and associated members must be advised accordingly.

13. RESPONSIBILITY OF THE INTELLIGENCE SERVICES AND THE ACADEMY FOR THE ASSOCIATION

(1) The Intelligence Services and the Academy must, on a monthly basis, contribute an amount to the Association to enable it to render its services.

(2) The Executive Committee of the Association must be invited to attend the annual year-end function of the Intelligence Services and the Academy.

(3) The Minister may host a function for the members of the Association.

CHAPTER XXIV

RESTRICTIONS OF FORMER MEMBERS

1. PURPOSE

The purpose of this Chapter is to regulate the manner in which any former member of the Intelligence Services or the Academy, as the case may be, may apply -

- (a) for consent to disclose classified information in terms of the Act; and/or
- (b) for a clearance certificate permitting employment in the private security industry.

2. CONFIDENTIALITY

No person who comes into possession of information as a result of an application or appeal made in terms of this Chapter may disclose such information unless -

- (a) the Director-General or CEO, as the case may be, consents to such disclosure; or
- (b) such disclosure is authorised by the Act, this Chapter or a Court order.

3. APPLICATION FOR CONSENT TO DISCLOSE CLASSIFIED

INFORMATION

(1) Application

(a) Any former member who applies for the disclosure of classified information in terms of the Act must do so according to form 1 contained in Appendix A.

(b) The application must inter alia contain -

- (i) details of the classified information which form the subject of the application;
- (ii) the reasons for disclosure of the information;
- (iii) the purpose for which the information will be used;
- (iv) details of any person who may receive the information;
- (v) the manner in which the information will be disclosed.

(c) If the Director-General or CEO, as the case may be, is of the opinion that he or she has been provided with insufficient information in the application, he or she may -

- (i) reject the application; or
- (ii) request further written information.

(2) Hearing

(a) The Director-General or CEO, as the case may be, may, at his or her discretion, request the former member to appear at a hearing for the purpose of considering the application.

(b) The Director-General or CEO, as the case may be, must determine the date for and place of the hearing.

(c) The former member may attend the hearing, but at his or her own expense.

(d) If the former member refuses or fails to attend a hearing when he or she was requested by the Director-General or CEO as the case may be, to do so according to regulation 3(2)(a), the respective Director-General or CEO may make his or her decision on the

information available.

(3) Decision and record of hearing

- (a) The Director-General or CEO, as the case may be, must make a decision within a period not exceeding 30 consecutive days upon receiving the application.
- (b) The Director-General or CEO, as the case may be, must inform the former member of his or her decision, in writing, within a period of twenty (20) consecutive days after reaching a decision.
- (c) The decision of the Director-General or CEO, as the case may be, accompanied by a record of the hearing must be provided to the former member who applied. This notification must include -
 - (i) the name and address of the former member;
 - (ii) a brief description of the application;
 - (iii) if the application is approved, the conditions upon which the consent is provided, which must include -
 - (aa) the manner of disclosure;
 - (bb) the information that may be disclosed;
 - (cc) to whom the information may be disclosed.
 - (iv) the date of the decision;
 - (v) if the application is unsuccessful, the reason(s) for the Director-General's or CEO's, as the case may be, decision;
 - (vi) the right of the former member to appeal against the Director-General's or CEO's, as the case may be, decision and/or the conditions to the Minister.
- (d) The Director-General or CEO, as the case may be, must keep record of all applications made to him or her as well as of decisions made by him or her.

**4. APPLICATION FOR A CLEARANCE CERTIFICATE PERMITTING
EMPLOYMENT IN THE
PRIVATE SECURITY INDUSTRY**

(1) Application

(a) A former member who applies for a clearance certificate to render a security service in terms of the Act must do so according to form 2 contained in Appendix A.

(b) The application must contain the following -

- (i) detailed description of the nature of the service to be rendered;
- (ii) skills, knowledge or information gained while in the service of the Intelligence Services or the Academy, as the case may be, that may be utilised by him or her in rendering the intended service;
- (iii) detail of the person(s), if any, in whose service he or she will be;
- (iv) details of the business, if any, he or she plans to start;
- (v) person(s) to whom the intended service will be provided.

(2) Decision

(a) The Director-General or CEO, as the case may be, must make a decision within a period not exceeding 30 consecutive days upon receiving the application.

(b) Where the Director-General or CEO, as the case may be, is of the opinion that the information provided is insufficient, he or she may request further information.

(c) The Director-General or CEO, as the case may be, must inform the former member of his or her decision in writing within a period of twenty (20) consecutive days after reaching a decision as well as his or her right to appeal to the Minister.

5. APPEALS

(1) Right to appeal

(a) A former member may appeal to the Minister against the decision of the Director-General or CEO, as the case may be, in terms of

regulations 3 or 4.

- (b) The appeal must be lodged with the Minister within a period of 30 consecutive days upon receipt of the decision of the Director-General or CEO, as the case
- (c) An appeal against a decision of the Director-General or CEO, as the case may be, must be accompanied by the record of the hearing contemplated in regulation 3.
- (d) The appeal must be served on the Director-General or CEO, as the case may be.
- (e) The Director-General or CEO, as the case may be, must forward all relevant documentation to the Minister and former member who applied within a period of twenty (20) consecutive days upon receipt of the appeal.
- (f) The former member may supplement his or her appeal within a period of fourteen (14) consecutive days upon receiving documentation in terms of regulation 5(2)(e).

(3) The decision of the Minister

The Minister concludes the appeal by informing the former member who applied and the Director-General or CEO, as the case may be, of his or her decision in writing.

[Click here to see abovementioned forms on pages 54-65](#)

CHAPTER XXVI

SECURITY SCREENING

1. GENERAL

(1) These security screening regulations provide a framework for determining the security competency of a person or member.

(2) All information acquired during a security screening investigation procedure must be treated with confidentiality and may not be used for any other purpose except for determining the security competency of the person or member with due regard for section 2(1)(b)(iii) of the National Strategic Intelligence Act, 1994 (Act 39 of 1994).

(3) The security screening investigation procedure may only be used to -

(a) protect the Intelligence Services and the Academy from foreign and hostile intelligence operations;

(b) safeguard the Intelligence Services and the Academy from the unauthorised dissemination or disclosure of classified information and material; and

(c) determine the person's or member's integrity, reliability and loyalty to the Intelligence Services and the Academy in safeguarding the interests of the Republic of South Africa and its Constitution.

(4) All security screening investigation procedures must be undertaken -

(a) with due regard for the vision, mission and core values of the respective Intelligence Services and the Academy;

(b) subject to the fundamental rights assigned in the Constitution.

(5) For purpose of this Chapter -

(a) "General Manager" means the General Manager responsible for the security screening function;

(b) "applicant" means a person or member who is subject of a security screening investigation.

2. CLEARANCE LEVELS

(1) The following clearance levels apply to the Intelligence Services -

(a) top secret - as contemplated in Chapter XXV: Provided that this classification includes access to information and/or premises;

(b) secret - as contemplated in Chapter XXV: Provided that this classification includes access to information and/or premises;

(c) confidential - as contemplated in Chapter XXV: Provided that this classification includes access to information and/or premises;

(2) The Director-General must determine the clearance level that any person and member must acquire before being employed or being permitted to perform any specific task for or on behalf of the Intelligence Services and

the Academy.

(3) The Director-General must determine the frequency with which an applicant's security screening must be evaluated.

3. FACTORS RELEVANT TO ACQUIRING A SECURITY CLEARANCE

(1) The following factors are, inter alia, relevant in determining whether an applicant should acquire a security clearance -

- (a) criminal offences and misconduct;
- (b) use of dependency forming substances;
- (c) financial considerations;
- (d) behavioural disorders;
- (e) citizenship and/or foreign influence; and
- (f) loyalty to the Constitution.

(2) The factors in regulation 3(i) must be evaluated to determine the competency of the applicant to be entrusted with classified or sensitive information.

(3) The Director-General must weigh the merits and weight of the factors referred to in regulation 3(1), in determining the security competency of an applicant.

4. SECURITY INVESTIGATION PROCEDURES

(1) The following procedures are applicable -

- (a) a security screening investigating officer must gather all available information that might reasonably have a bearing on the outcome of a security clearance;
- (b) the Director-General may request the fingerprints of all persons or members for verification by the South African Police Services (SAPS);
- (c) the security screening investigating officer must, on behalf of the Intelligence Services or the Academy, as the case may be, request an applicant to submit the following -

- (i) financial statements for at least three (3) months preceding the date of the security screening investigation;
 - (ii) certified copies of identity documents;
 - (iii) any other information or documents which may assist the security screening investigation officer to perform his or her duties.
- (d) the security screening investigating officer must collect the necessary information by means of an in-depth interview with the applicant and the references;
- (e) after gathering all the relevant information, the security screening investigating officer must evaluate the information, compile a report and make a recommendation for the attention of the General Manager with regard to the security competency of the applicant concerned;
- (f) the General Manager must, upon receipt of the report, evaluate the facts presented to him or her and make a recommendation to the Director-General on the security competency of the applicant;
- (g) the General Manager must, in the event of finding the applicant security incompetent, provide the Director-General with reasons for his or her finding;
- (h) where the General Manager is unable to make a recommendation to the Director-General on the basis of the report presented to him or her, the Director-General may refer the matter for recommendations to the Security Clearance Advisory Board (SCAB), established in terms of regulation 5;
- (i) the Director-General must, after considering the recommendations of the General Manager or SCAB, as the case may be, evaluate the information presented to him or her, degrade, withdraw or refuse to grant a security clearance certificate;
- (j) the applicant must, in writing, be notified of the outcome of the security screening investigation; Provided that information which may be prejudicial to national security, criminal investigations, identity of sources and members, may not be disclosed to the applicant;

- (k) any applicant may appeal against the decision of the Director-General, in terms of regulation 8;
- (l) the security clearance level, if any, issued to an applicant in terms of regulation 4(1)(i) must -
 - (i) be specified in a certificate issued by the Director-General, which is, prima facie proof of the security clearance level;
 - (ii) remain in force until the next security screening investigation in respect of the applicant, or until such security clearance has lapsed, been downgraded or withdrawn; and
 - (iii) be subject to periodic revision at such times or intervals as the Director-General may determine from time to time.
- (2) The Director-General must determine the procedure applicable to different security clearance levels.

5. SECURITY CLEARANCE ADVISORY BOARD (SCAB)

(1) The Director-General may appoint not fewer than five (5) members of the Intelligence Services to serve on SCAB, one of whom will be the chairperson.

(2) SCAB must evaluate the report of the General Manager contemplated in regulation 4(1)(h).

(3) SCAB may be constituted of a member(s) from the following structures in the Intelligence Services -

- (a) security screening;
- (b) human resources;
- (c) legal services;
- (d) labour relations; and
- (e) any other member(s) designated by the Director-General.

6. POLYGRAPH

(1) The security screening investigating officer may request an applicant to undergo a polygraph examination to determine the reliability of information gathered in terms of regulation 4.

(2) The polygraph must be used as an investigative aid, and not as conclusive proof of security competency.

(3) The refusal by an applicant to undergo a polygraph examination does not, in itself, constitute a reason for refusal of a security clearance, instead further investigations must be conducted.

(4) The Director-General may issue directives on polygraph testing.

7. REPRESENTATION

(1) An applicant adversely affected by a withdrawal, downgraded or refusal of a security clearance and who intends to lodge an appeal against the decision of the Director-General is entitled to representation: Provided that the Director-General must be notified of such representation.

(2) The services of a legal practitioner who is not a member of the Intelligence Services or the Academy, as the case may be, may only be utilised according to regulation 10.

(3) The Director-General must implement measures which he or she deems necessary and advisable to protect intelligence information and documents in the possession or under the control of the Intelligence Services and the Academy from unauthorised disclosure, which are the subject of an appeal.

8. WITHDRAWAL, DOWNGRADING OR REFUSAL OF SECURITY CLEARANCES

(1) If the Director-General is reasonably of the opinion that an applicant may not be appointed as a member or continue as a member without the possibility that such an applicant could be a security risk or could possibly act in any manner prejudicial to the security interests of the Republic of South Africa, he or she may withdraw, downgrade or refuse to grant security clearance.

(2) The applicant whose security clearance has been refused, withdrawn or downgraded must be notified, in writing, of the decision of the Director-General with reasons therefore: Provided that information which may be prejudicial to national security, criminal investigations, identity of sources and members, may not be disclosed to the applicant.

(3) Within 30 consecutive days after having received the notification contemplated in regulation 8(2), the applicant who is adversely affected thereby may lodge a written appeal with the Director-General, together with all such written representations, statements and documents deemed necessary, and a notice of intention to have representation.

(4) The Minister may upon such written appeal by the applicant within the period contemplated in regulation 8(3) and on good reason shown, extend the period.

(5) The Director-General must, upon receipt of any appeal lodged with him or her in terms of regulation 8(3), provide the following information to the Minister within 21 consecutive days -

- (a) written representations together with all supporting documents and any representation;
- (b) notification to the applicant by the Director-General with the reasons for withdrawal, downgrading or refusal of security clearance;
- (c) all documents, information and particulars considered in its evaluation by the Director-General in coming to a decision;
- (d) any further reasons which may have influenced the decision:

Provided that the Director-General must as far as is reasonably practicable, take steps to ensure that national security methods, intelligence collection methods, sources of information and the identity of members of the Intelligence Services and the Academy are protected from unauthorised disclosure.

(6) In addition to the information contemplated in regulation 8(5), the Director-General must satisfy the Minister that -

- (a) the information or intelligence which forms the basis of the decision contemplated in regulation 8(1) was evaluated by him, according to intelligence methods, and that it was correct and true;
- (b) in his or her opinion, the information or intelligence that is withheld from the applicant contemplated in regulations 8(2) and 8(5), if any, is of such a nature that the applicant concerned should not be notified thereof, and or should not even know that the Intelligence Services has the ability to obtain that information or intelligence;

(c) he or she personally considered and studied the information or intelligence; and that he or she, acting in good faith and in the interests of national security, in the light of the contents of the information or intelligence received cannot entrust the applicant with the most sensitive secrets of the Republic of South Africa.

9. APPEALS BOARD

(1) The Minister may appoint five (5) persons to constitute an Appeals Board and to consider appeals: Provided that the persons so appointed and who are not members of the Intelligence Services or the Academy, as the case may be, must meet the requirements of a security clearance: Provided further that at least two (2) of the appointed persons must be legal and/or labour relations experts.

(2) The members of the Appeals Board may also be members of the Intelligence Services and/or the Academy.

(3) The Minister may, for each appeal lodged, appoint at least three (3) of the members of the Appeals Board to form an Appeals Panel, of whom one (1) must be the chairperson: Provided that at least two (2) of the appointed persons must be legal and/or labour relations experts.

(4) The Minister must determine the terms and conditions of appointment of persons on the Appeals Panel who are not members of the Intelligence Services or the Academy, as the case may be, in accordance with the Public Finance Management Act, 1999 (Act 1 of 1999).

(5) The chairperson of the Appeals Panel must, in consultation with the Director-General, ensure that the Appeals Panel is given the necessary administrative support.

10. APPEALS

(1) The notice of appeal must set out the grounds for appeal.

(2) Upon receipt of the documents referred to in regulation 8(5), the Minister may, within ten (10) consecutive days, consider the appeal, or appoint a panel to constitute the Appeals Board and provide it with the documents referred to in regulation 8(5).

(3) Upon being appointed, the chairperson of the Appeals Board must, without undue delay, send a written notice to the applicant who lodged the appeal. The written notice must specify -

(a) the date on which representations may be made by the parties to appeal. This date must not exceed five (5) consecutive days upon receipt of the written notice;

(b) the time and venue for representations to be heard.

(4) The applicant may be represented by any person, member or legal practitioner in the appeal process: Provided that if he or she is represented by a legal practitioner who is not a member, the following prerequisites are met -

(a) such a legal practitioner must satisfy the requirements for security clearance;

(b) the members of the Appeals Board give their consent thereto, after considering-

(i) the complexity of the case;

(ii) the nature of the questions of law raised by the appeal;

(iii) public interest;

(iv) the comparative ability of the opposing parties or their representatives to deal with the appeal.

(5) The legal costs incurred by the applicant must be paid by him or her.

(6) If an applicant fails to appear in person or make representations through a representative on the specified date, the chairperson may rule to consider the appeal in his or her absence or postpone the appeal hearing.

(7) The chairperson of the Appeals Board must determine and issue rules for the proper noting and consideration of appeals.

(8) The Appeals Board must, within fifteen (15) consecutive days upon consideration of the appeal, make a recommendation thereon in accordance with the provisions of the Act.

(9) The majority of members of the Appeals Board form a quorum at any meeting of the Appeals Board.

(10) On an equality of votes in any meeting of the Appeals Board, the

chairperson has a casting vote in addition to the deliberate vote.

(11) The recommendation of the Appeals Board must be forwarded to the Minister for consideration.

11. CONSIDERATION OF THE APPEAL BY THE MINISTER

(1) Where the Minister has appointed an Appeals Board in terms of regulation 9(3), he or she must within 21 consecutive days of receipt of the recommendations of the Appeals Board either confirm or set aside the recommendations.

(2) Where the Minister considers the appeal, he or she must confirm, set aside or vary the decision of the Director-General.

(3) The Minister's decision is final and binding.

(4) The decision of the Minister must be submitted to the Director-General in writing within fourteen (14) consecutive days after having made a decision in terms of regulation 11(1) or 11(2), for purposes of notification to the applicant who lodged the appeal.

(5) The Director-General must, within ten (10) consecutive days of receipt of the Minister's decision, inform the applicant in writing of the outcome of the appeal.