

SCHEDULE TO OBJECTIONS TO THE DRAFT AMENDMENTS TO THE PSIRA REGULATIONS

Number	Regulation	Amendment	Comment/Objection
1.	Regulation 1(e)	Weapon: (a) Any object other than a firearm. (b) A dangerous weapon (c) Handcuffs	(i).What does this mean? It is vague to the extreme and would arguably include a paperclip or any object that could be used for instance a hosepipe or a motor vehicle. (ii).According to the Odhams Dictionary of the English Language, “weapon” is described as <i>“any instrument of offence or defence fitted for the killing or wounding of enemies “</i> (iii).This is vague and does not describe in any form what that could be. (iv).How does a dangerous weapon differ from a weapon? This is not described. Odhams describes the word <i>“danger” as “whatever risk of injury or death; the condition or cause of peril: exposure to risk of injury or death.”</i> Thus it could be any conceivable instrument on the face of the earth. (i). If this is classified as a dangerous weapon, then any security official who handcuffs a suspect would be guilty of assault with the intent to cause grievous bodily harm irrespective of its legal and lawful use. (ii). In effect, what could happen is that if a suspect who has been legally arrested and handcuffed by a security officer, lays a complaint against that security official, it would mean that the provisions of Regulation 13A (1)(j) would become applicable and that both the security officer and the company

			employing that officer would be under investigation and must cease operations. (iii). It is assumed that the investigation will have to be conducted by the SAPS as they are lawfully mandated to do so. (iv). Whether or not the arrest and handcuffing was lawful, it is something that would have to be decided either in a court of law or by the Director of Public Prosecutions. This can only be done once a police investigation has been completed – however long that may take. (v). This ill-considered regulation makes a mockery of the justice system. (vi). Even a plastic cable tie would classify as a dangerous weapon.
2.	Regulation 13A (1)(g)	Documentation	(i). Requiring an original document which is signed by the CEO, who is the licence holder, is impractical and unworkable. (ii). That person will have to be present at each and every change of shifts and sign original letters for all officers going on duty. (iii). How long will this take if there are numerous persons? (iv). It would make the administration impossible.
3	Regulation 13A(1)(j) 13A(1)(k)	Security officer and business under investigation	(i). If a complaint is laid against a security officer it means that the business that employs that official will also be under investigation. (ii). Then both will be under investigation and must cease operations until the State investigation is concluded. (iii). That may take years and in the meantime the provider and the officer are prohibited from

			operating ad must cease their work. (iv).Effectively the business is closed down. (v). This regulation is open to all kinds of abuse.
4.	Regulation 13A(1)(q)	Possession of prohibited weapons	(i). The 10 places where security officers are included from not possessing firearms are in effect those where criminals usually prey on victims. (ii).This regulation means that security officials are prevented from doing their work and must stand ineffectually by, watching criminals at work while the police are on their way – if at all. (iii).This Regulation is a classic example of the rashness with which not only this regulation, but most of the others have been formulated.
5	Regulation 13A (1)(s)	Reasonable quantity of ammunition.	(i).What is a reasonable quantity? (ii). By whom is this determined? (iii). The riots in KZN proved that had it not been for security officials assisting law enforcement, the rioters would have overwhelmed the police.
6.	Regulation 13A(1)(u)(iii)-(v)	Use in a public place	(i). The requirement for an assessment report to be done is impossible, impractical and totally unenforceable, if not ridiculous. (ii). Risks cannot be accurately forecast beforehand. (iii). All assessments are based on conjecture and possibilities (iv). Assessments are not an exact science and are influenced by so many unknown factors as to make them totally unreliable. (v). This regulation is dangerous to the extreme and creates

			potentially life-threatening situations. (vi). Therefor security officials must be prepared for all eventualities. (vii). By whom will these assessments be done? (viii). What level of expertise will be required from these so-called experts? (ix) Who will appoint these experts?
7.	Regulation 13A(8)(e)	Monitoring	(i). This Regulation is poorly and clumsily worded. (ii). It contains grammatical errors. (iii) It is unclear and difficult to understand.
8.	Regulation 13A(8)(j)	Timeously informing client	(i). What does “timeously” mean? (ii). By whom is it to be done?
9.	Regulation 13A(10) and (12)	Use of handgun or shotgun	(i). This requirement is impractical. (ii). Nobody is able to judge accurately beforehand what type of threat there is or what kind of firearm will be required. (iii). The necessity for a particular type of firearm will only become apparent at the moment of need. (iv). This regulation is as rash and ill-considered as that in point 4(iii) above.
10.	Regulation 13A(16 and 17)	Tracking devices	(i). There are no effective tracking devices in existence. (ii). Those that are available, are impractical and are easily removed. (iii). This requirement is useless, impractical and ineffective.
11.	Regulation 13A(21)	Only issued firearms to be carried	(i). This will cause security officers to be in great danger. (ii). A second or back-up firearm can save lives.

			(iii).Such a firearm may be used in cases where the official is disarmed. (iv).If they are permitted to carry back up firearms, they may be in a position to defend themselves and others when they are disarmed by criminals.
12.	Regulation 13A(22(b) and (c)	Prohibition of issuance of a particular firearm to a security official.	(i).On what grounds does the director have the authority to prohibit a particular type of firearm to be issued to a security official? (ii). How is this decision arrived at? (iii).This is an arbitrary rule unless there are grounds for this decision.
13.	Regulation 13B (17)	Prohibited weapons	(i).This list includes most, if not all, devices used by police services in most countries in the rest of the world to deal with riots, revolts and insurrections. (ii). The riots in KZN clearly proved that situations quickly get out of control and that they call for specialized devices such as those prohibited in this regulation. (iii).Not only are rioters also civilians but many innocent people also may become involved. This cannot be prevented and is one of the reasons why a risk assessment is virtually impossible. (iv). If, therefor no action may be taken against them, it means that they will be allowed to riot and plunder at will while an ineffective police service is helpless due to poor management and a serious lack of equipment and training. (v).This regulation is self-defeating, ridiculous and dangerous in the extreme.

SOME COMMENTS:

1. It is most regrettable and unfortunate that very little thought has gone into the formulation of most of these Regulations.
2. This has caused much uncertainty and stress to all in the private security and allied industry.
3. It is agreed that control must be exercised over firearms and those that are allowed to possess and use them. The Firearm Control Act 2000 (Act 60 of 2000) and its Regulations already make provision for this without further regulatory control.
4. There are thus sufficient and effective rules and regulations in existing legislation without further complicating matters.
5. However, the ripple effect of these Regulations will not only cripple or destroy the private security industry; it will lead to great many job losses throughout the industry for instance gunsmiths, dealers in firearms and security-related products like armoured vehicles, cash in transit operations, importers and a host of businesses reliant on servicing the whole security industry.
6. Then, of course, there are the ordinary citizens who will now be without protection and being at the mercy of criminals, will become the victims of these irrational, impractical, unrealistic and destructive regulations.
7. The police have proved time and time again that they are unable to protect the citizens of this country as clearly provided for in the Constitution. This is not something that can be solved overnight and will require a political will to completely overhaul and restructure the entire Service to be able to serve and protect the citizens of South Africa. Then, and only then, will some of these Regulations start to make sense. But, until then, these Regulations are rejected with the contempt they deserve.
8. The knock-on effect will be a surge in the acquisition of firearms for self-protection by private citizens and without private security to assist the SAPS, this will make life difficult for an already overworked, understaffed, struggling SAPS.