

Namibia

## Security Enterprises and Security Officers Act, 1998

### Act 19 of 1998

Legislation as at 1 November 2006

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Republic of Namibia  
Annotated Statutes

## Security Enterprises and Security Officers Act, 1998

### Act 19 of 1998

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[\[Amended by General Law Amendment Act, 2005 \(Act 14 of 2005\) on 28 December 2005\]](#)

[\[Amended by Public Enterprises Governance Act, 2006 \(Act 2 of 2006\) on 1 November 2006\]](#)

## ACT

To establish a Security Enterprises and Security Officers Regulation Board; to regulate the registration of security enterprises and security officers; to establish a fidelity guarantee fund; and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:-

### Part I – PRELIMINARY PROVISIONS

#### 1. Definitions

In this Act, unless the context otherwise indicates -

[\[definition of “chairperson” substituted by Act 21 of 2002 and deleted by Act 2 of 2006\]](#)

“**company**” means a company within the meaning of the Companies Act, 1973 (Act [No. 61 of 1973](#));

[\[The Companies Act 61 of 1973 has been replaced by the Companies Act 28 of 2004.\]](#)

“**Fund**” means the fidelity guarantee fund established under section 26;

“**member**” means a member of SESORB;

“**Minister**” means the Minister responsible for policing;

[\[definition of “Minister” amended by of Act 14 of 2005\]](#)

**“prescribe”** means prescribe by regulations made under this Act;

**“security enterprise”** means a person registered in terms of section 15;

**“security officer”** means a person registered in terms of section 16;

**“security service”** means a service rendered by a person to another person for reward by -

- (a) making himself or herself or a person in his or her or its employ available for the protection or safeguard of people or property in accordance with an arrangement concluded with such other person; or
- (b) advising such other person in connection with the protection or safeguard of people or property in any manner whatsoever;

**“SESORB”** means the Security Enterprises and Security Officers Regulation Board established by section 2;

**“staff member”** means a staff member as defined in section 1(1) of the Public Service Act, 1995 (Act [No. 13 of 1995](#)).

[definition of “staff member” inserted by Act [21 of 2002](#)]

[definition of “vice-chairperson” substituted by Act [21 of 2002](#) and deleted by Act [2 of 2006](#)]

## Part II – SECURITY ENTERPRISES AND SECURITY OFFICERS REGULATION BOARD

### 2. Establishment of SESORB

There is hereby established a juristic person to be known as the Security Enterprises and Security Officers Regulation Board, the shortened form of which shall be “SESORB” and which may be used as an alternative to the name Security Enterprises and Security Officers Regulation Board.

### 3. Objects of SESORB

The objects of SESORB shall be to -

- (a) exercise control over security enterprises and the occupation of security officer; and
- (b) maintain, promote and protect the status of security enterprises and security officers.

### 4. Powers, duties and functions of SESORB

Subject to this Act, the powers, duties and functions of SESORB shall be to -

- (a) maintain standards and regulate practices in connection with the occupation of security officer and persons pursuing or intending to pursue such occupation;
- (b) gather information relevant to the occupation of security officer in connection with persons who are security officers or applying for registration as such;
- (c) give advice in connection with the training of security officers in Namibia and promote the standard of such training;
- (d) cause its work to be performed by persons employed by it on conditions determined by it or with whom it has entered into contracts for the performance of any particular work;
- (e) acquire or hire movable or immovable property, including rights thereto;
- (f) let, sell or otherwise dispose of movable or immovable property of SESORB, including rights thereto;
- (g) open accounts with any banking or other financial institution;

- (h) invest money;
- (i) accept donations and, with the approval of the Minister, accept donations from outside the country;
- (j) determine the remuneration payable from the funds of SESORB to members of SESORB and members of committees referred to in section 13;
- (k) become a member of an association or organisation which seeks to promote any matter in which SESORB has an interest;
- (l) collaborate with any person in the performance of an act which SESORB is by law permitted to perform;
- (m) enter into any contract or perform any act that will in the opinion of SESORB contribute towards the attainment of its objects;
- (n) advise the Minister on any matter relating to security officers;
- (o) communicate to the Minister information relating to matters of public interest acquired by SESORB in the performance or execution of its powers and functions under this Act; and
- (p) generally, to do all such things as SESORB considers necessary or expedient in order to achieve the objects of this Act.

## 5. Constitution of SESORB

- (1) SESORB shall be constituted and its member, including the chairperson and the vice-chairperson of SESORB, shall be appointed in accordance with, and for a period as determined under, sections 14 and 15 of the Public Enterprises Governance Act, 2006, but the membership of SESORB shall include at least six security officers selected from amongst persons whose names appear on a list compiled in terms of subsection (3), of whom three shall be representative of employers and three representative of employees.

**[Subsection (1) is substituted by Act 21 of 2002 (as amended by Act 14 of 2005), and substituted by Act 2 of 2006, as amended by Act 8 of 2015.  
The Public Enterprises Governance Act referred to is Act 2 of 2006.]**

- (2) As often as it may become necessary, the Minister shall by notice in the Gazette or in such manner as he or she may determine, invite associations and organisations of security enterprises and security officers to submit to him or her, directly or through any federation of such associations or organisations, within a specified period names of persons involved in the occupation of security officer and who are competent and fit and proper to be appointed as members of SESORB.
- (3) Upon the expiry of the period specified in terms of subsection (2), the Minister shall cause to be compiled a list of the names of persons whose names were submitted to him in pursuance of the relevant invitation and who in his or her opinion are competent and willing, and are fit and proper persons, to be appointed as members of SESORB and who in the opinion of the Minister are representative of security enterprises and security officers in the Republic of Namibia.
- (4) Where no names are submitted to the Minister or where an insufficient number of names of competent and fit and proper persons is submitted to him or her within the period specified in terms of subsection (2), after the invitation referred to in that subsection, the Minister may, at his own discretion, compile the list referred to in subsection (3).
- (5) The members shall be appointed by the Minister and a notice of appointment shall be published in the Gazette.
- (6) **[subsection (6) deleted by Act 2 of 2006]**

## 6. Disqualification for appointment as member of SESORB

A person who -

- (a) is not a Namibian citizen or not lawfully admitted to Namibia for permanent residence in Namibia and not resident in Namibia;
- (b) is an unrehabilitated insolvent;
- (c) has during the period of 10 years immediately preceding the date of commencement of this Act or at any time after that date been convicted of an offence specified in the Schedule to this Act,

shall not be appointed as a member of SESORB.

## 7. Vacation of office

A member of SESORB shall vacate his or her office -

- (a) if he or she becomes subject to any disqualification contemplated in section 6;
- (b) if he or she is declared mentally ill under the Mental Health Act, 1973 (Act [No. 18 of 1973](#));
- (c) if he or she in writing under his or her hand addressed and delivered to SESORB, resigns from his or her office by giving not less than one month's notice; or
- (d) if he or she has been absent from more than three consecutive meetings of SESORB without its leave.

## 8. Filling of casual vacancies

Any casual vacancy in the membership of SESORB caused by the vacation of office by, or death of, any member of SESORB shall, having regard to section 5(1) be filled by the appointment of another person, in accordance with section 5(5) for the unexpired portion of the period of office of such former member.

## 9. Meetings, quorum and procedures of SESORB

- (1) [\[subsection \(1\) deleted by Act 21 of 2002 and also by Act 2 of 2006\]](#)
- (2) [\[subsection \(2\) deleted by Act 21 of 2002 and also by Act 2 of 2006\]](#)
- (3) The first meeting of SESORB shall be held at such time and place as may be determined by the Minister and thereafter, subject to subsection (4), meetings of SESORB shall be held at such times and places as the chairperson may determine, but such meetings shall be held at least twice a year.
- (4) The chairperson shall, at the request, in writing, of the Minister or of at least one third of the members, convene a special meeting of SESORB, within seven days after he or she has been requested to do so.
- (5) The chairperson or, in his or her absence, the vice-chairperson or, in the absence of both the chairperson and the vice-chairperson, such member as the members present shall elect, shall preside at a meeting of SESORB.
- (6) A majority of the members of SESORB shall constitute a quorum at any meeting of SESORB.
- (7) A decision of a majority of the members present at a meeting of SESORB, shall be the decision of SESORB and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.
- (8) The person presiding at a meeting of SESORB may permit any person who has an interest in any matter due to be considered at that meeting, or any representative of that person, to attend the meeting and to take part in such discussions of SESORB as in the opinion of the person presiding relate to such matter, but such person or representative shall not be entitled to vote.



- (9) A decision of SESORB or an act performed under the authority of SESORB shall not be rendered invalid by reason only of a vacancy in the membership of SESORB or of the fact that a person who is not entitled to sit as member did so sit when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members who were present at the time and entitled to sit as members.
- (10) SESORB shall cause minutes to be kept of the proceedings of each of its meetings and of every committee established by it and shall, at the request of the Minister, furnish to the Minister a copy of the minutes of any meeting of SESORB or such a committee that may be required by the Minister.
- (11) SESORB shall determine the procedure to be followed at its meetings.

## **10. Committees of SESORB**

- (1) SESORB may, from time to time, establish a committee for the purpose of performing any of its functions and may delegate to any such committee such of its functions as it considers fit.
- (2) SESORB may appoint as member of a committee established under subsection (1) any person notwithstanding that he or she is not a member of SESORB.
- (3) The chairperson may attend any meeting of a committee and may take part in its proceedings and he or she may vote on any matter at any such meeting.

## **11. Restriction of liability of members and of members of committees**

A member of SESORB or a member of any committee established by SESORB shall not be personally liable for any loss or damage arising out of, or in connection with, the performance of his or her duties unless the loss or damage is due to his or her wilful misconduct, gross negligence or failure to comply with any provision of, or direction or decision under, this Act.

## **12. Executive committee**

- (1) SESORB may appoint an executive committee consisting of at least three of the members of SESORB.
- (2) SESORB shall, as often as it may become necessary, elect one of the members of the executive committee as the chairperson and another member as the vice-chairperson of the committee.
- (3) SESORB may delegate any power conferred upon it by, or under, this Act to the executive committee or authorize the executive committee to perform any duty assigned to SESORB by or under this Act.
- (4) Any power delegated or duty assigned under subsection (3) shall be exercised or performed by the executive committee subject to such directives as SESORB may from time to time issue.
- (5) A delegation of power under subsection (3) shall not prevent the exercise of that power by SESORB.
- (6) The meetings of the executive committee shall be conducted according to such rules as may be determined by SESORB.
- (7) Section 9(5) shall mutatis mutandis apply in respect of the executive committee.

## **13. Remuneration of members of SESORB**

A member or a member of a committee who is not in the full-time employment of the State shall in respect of his or her services as member be paid out of the funds of SESORB, such remuneration and subsistence, travelling and other allowances as the Minister may determine, subject to section 22(1) of the Public Enterprises Governance Act, 2006.

**[Section 13 is substituted by Act 2 of 2006, as amended by Act 8 of 2015.  
The Public Enterprises Governance Act referred to is Act 2 of 2006.]**

## **Part III – REGISTRATION OF SECURITY ENTERPRISES AND SECURITY OFFICERS**

### **14. Registration as security enterprise or security officer**

- (1) As from a date to be determined by the Minister by notice in the Gazette, no person shall -
  - (a) conduct business for the purpose of rendering a security service unless that business is registered as a security enterprise;
  - (b) render a security service unless that person is registered as a security officer; or
  - (c) permit any person employed by him or her to perform any functions of security officer unless that person is registered as a security officer.
- (2) The notice under subsection (1) shall be published at least 60 days before the date specified in that notice.
- (3) A person who contravenes subsection (1) shall be guilty of an offence and liable, on conviction -
  - (a) if the person is a natural person, to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment; or
  - (b) if the person is a company, a close corporation or a partnership, every director of the company or every member of the close corporation or the partnership shall be liable to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

### **15. Application for registration as security enterprise**

- (1) An application for registration as a security enterprise shall be made to SESORB on a prescribed form and shall be accompanied by -
  - (a) a clear and complete set of finger prints taken in the prescribed manner, of the applicant if the applicant is a natural person or of each director if the applicant is a company or of each member if the applicant is a close corporation or a partnership; and
  - (b) the prescribed application fee.
- (2) Any person applying in terms of subsection (1) for registration as a security enterprise shall furnish such additional particulars in connection with such person's application as SESORB may determine.
- (3) If SESORB is satisfied that this Act has been complied with in respect of an application referred to in subsection (1), it shall grant the application and register the applicant as a security enterprise.
- (4) A business shall not be registered under subsection (3) unless, in the case of the owner being a natural person, such person or, if the owner is a company, a close corporation or a partnership, every director, member or partner thereof is also registered as a security officer.
- (5) Where SESORB refuses to grant an application to an applicant under this section, it shall furnish the applicant with its reasons.

### **16. Application for registration as security officer**

- (1) An application for registration as a security officer shall be made to SESORB on a prescribed form and shall be accompanied by -
  - (a) a clear and complete set of fingerprints taken in the prescribed manner, of the applicant; and
  - (b) the prescribed application fee.

- (2) Any person applying in terms of subsection (1) for registration as a security officer shall furnish such additional particulars in connection with his or her application as SESORB may determine.
- (3) If SESORB is satisfied that the provisions of this Act have been complied with in respect of an application referred to in subsection (2), it shall grant such application and register the applicant as a security officer.
- (4) Where SESORB refuses to grant an application to an applicant under this section, it shall furnish the applicant with its reasons.

## **17. Disqualification from registration as security officer**

- (1) Subject to subsection (2) a person shall not be qualified to be registered as a security officer if -
  - (a) he or she was during the period of 10 years immediately preceding the date of commencement of this Act or, at any time after that date found guilty of an offence specified in the Schedule to this Act;
  - (b) he or she is a person whose previous registration as a security officer has been withdrawn under this Act; or
  - (c) he or she is under the age of 18 years.
- (2) The Minister may, upon application and if in his or her opinion good reason exists, declare a person to be released of disqualification.

## **18. Register**

SESORB shall keep a register in which it shall enter the name and prescribed particulars of each security enterprise and security officer whose application for registration has been granted under section 15(3) or 16(3).

## **19. Registration certificates**

SESORB shall issue on the prescribed form a certificate of registration to each person registered as a security enterprise or a security officer.

## **20. Withdrawal of registration by SESORB**

- (1) SESORB may withdraw the registration of a security officer by written notice to such security officer -
  - (a) if he or she has furnished to SESORB information in, or in connection with, his or her application for registration which is in a material respect untrue;
  - (b) if at any time after his or her registration -
    - (i) he or she is found guilty of an offence specified in the Schedule to this Act;
    - (ii) he or she is found guilty of misconduct under section 24(1)(a); or
    - (iii) he or she becomes of unsound mind and is declared as such by a competent court;
- (2) SESORB may withdraw the registration of a security enterprise by written notice to such security enterprise if the registration as a security officer of the owner of such enterprise or, in the case of a company, close corporation or partnership, of any director, member or partner thereof is withdrawn under subsection (1).
- (3) The written notice referred to in subsections (1) and (2) shall state reasons for withdrawal.

**21. Withdrawal of registration by court**

- (1) SESORB may, by notice of motion, apply to the High Court of Namibia for an order withdrawing the registration of a security enterprise or a security officer if grounds, other than those mentioned in section 20, 22(2) or 29(2), exist justifying the withdrawal of the registration.
- (2) The High Court may grant or refuse the application under subsection (1) and may make such order as to costs as it may consider fit.

**22. Payment of annual amounts**

- (1) Every person registered as a security enterprise or a security officer shall annually on or before a prescribed date pay to SESORB a prescribed amount.
- (2) If a security enterprise or a security officer fails to comply with subsection (1), SESORB may -
  - (a) in the case of a security enterprise, suspend its registration as a security enterprise until the amount owed by it is paid to SESORB; and
  - (b) in the case of a security officer, suspend his or her registration as a security officer until the amount owed by him or her is paid to SESORB,and if the relevant amount is not paid within three months from the date of suspension of registration thereof, SESORB may withdraw such registration.

**23. Code of conduct**

- (1) The Minister may, on the recommendation of SESORB, draw up a code of conduct for security enterprises and security officers.
- (2) A code of conduct drawn up under subsection (1) shall be published by notice in the Gazette.

**24. Misconduct by security enterprises and security officers**

- (1) A security enterprise or a security officer shall be guilty of misconduct if it or he or she -
  - (a) contravenes or fails to comply with the code of conduct drawn up in terms of section 23; or
  - (b) commits an offence specified in the Schedule to this Act.
- (2) SESORB may, in the prescribed manner, enquire into an allegation of misconduct by a security enterprise or a security officer, which has been submitted to it in the prescribed manner or, cause such allegation to be enquired into in the prescribed manner by a committee of members of SESORB or by a person designated by SESORB.
- (3) At an enquiry under subsection (2) a security enterprise or a security officer shall have the right to be assisted or represented by a legal practitioner and to -
  - (a) give evidence;
  - (b) be heard;
  - (c) call witnesses;
  - (d) cross-examine any person called as a witness in support of the charge; and
  - (e) inspect any document produced as evidence.

- (4) If SESORB or the committee or the person conducting the enquiry finds the security enterprise or the security officer guilty of misconduct, SESORB may, after having afforded the security enterprise or the security officer an opportunity to make representations as to an appropriate penalty -
  - (a) suspend the registration of the security enterprise or the security officer or withdraw such registration under section 20;
  - (b) subject to subsection (5), impose upon the security enterprise or the security officer a fine not exceeding N\$4 000, which fine shall be paid to SESORB; or
  - (c) reprimand the security enterprise or the security officer.
- (5) Upon SESORB or the committee or the person conducting the enquiry finding the security enterprise or the security officer guilty of misconduct, SESORB or the committee or the person conducting the enquiry shall furnish the security enterprise or the security officer with reasons for such finding and, on request, with the record of the enquiry.
- (6) Notwithstanding subsection 4(b), payment of a fine imposed under that subsection may be suspended conditionally in whole or in part.
- (7) SESORB shall not take any action under subsection (4) in respect of an enquiry conducted by a committee or a person designated by it unless it accepts the finding of the committee or of the person.
- (8) If a security enterprise or a security officer refuses or fails to appear after it or he or she is duly warned of an enquiry under subsection (2), the enquiry may continue in the absence of that security enterprise or that security officer.

## **25. Appeal to Minister against certain decisions**

- (1) Any person aggrieved by -
  - (a) a refusal by SESORB to grant its or his or her application for registration as a security enterprise or a security officer;
  - (b) a suspension or a withdrawal by SESORB of its or his or her registration as a security enterprise or a security officer; or
  - (c) its or his or her conviction under section 24 on a charge of misconduct or by any penalty imposed under that section,may within 21 days after it or he or she has been notified of the decision referred to in paragraph (a), (b) or (c), as the case may be, appeal against such decision to the Minister, in the prescribed manner.
- (2) Whenever an appeal under subsection (1) is lodged, SESORB shall at the request of the Minister submit to the Minister, in writing, the reasons for the decision against which the appeal is lodged as well as, in the case of a decision in pursuance of an enquiry under section 24, the record of the enquiry.
- (3) The Minister shall after receiving the appeal under subsection (1) and the reasons and the record of enquiry referred to in subsection (2) make such decision as he or she considers fit.

## **Part IV – FIDELITY GUARANTEE FUND**

### **26. Establishment of Fund**

- (1) The Minister may, by notice in the Gazette, establish a fidelity guarantee fund for security enterprises.

- (2) The Fund shall consist of -
  - (a) all amounts paid to, or on account of, the Fund in terms of section 29;
  - (b) all moneys received on behalf of the Fund from an insurance company under a contract of indemnity referred to in section 28.
  - (c) the income accruing from time to time from the investment of the money in the Fund;
  - (d) all moneys recovered by, or on behalf of, the Fund in the exercise of any right of action conferred by section 32; and
  - (e) any other moneys that may be lawfully paid into the Fund.

## **27. Administration and control of Fund**

- (1) The Fund shall be administered and controlled by SESORB.
- (2) SESORB shall open an account, separate from the one in section 4(g), with a banking institution, into which shall be paid all moneys accruing to the Fund and out of which shall be paid all payments to be made from the Fund.
- (3) Moneys in the Fund which are not required for immediate use may be invested by SESORB in such manner as may be approved by the Minister of Finance.
- (4) Sections 33(2) and (3), 34 and 35 shall mutatis mutandis apply in respect of the affairs of the Fund.

## **28. Insurance contracts**

- (1) SESORB may enter into a contract with a person or a company carrying on fidelity insurance business whereby the Fund will be indemnified to the extent and in the manner provided in such contract against liability to pay claims under this Act.
- (2) A contract referred to in subsection (1) shall be entered into in respect of security enterprises generally.
- (3) A claimant against SESORB shall not have -
  - (a) a right of action against a person or a company with whom a contract of indemnity has been entered into in terms of this section, in respect of such contract; or
  - (b) a right to any money paid by the insurer in accordance with the contract of indemnity.
- (4) Any money paid by an insurer in accordance with a contract of indemnity shall be paid into the fund for appropriation by SESORB.

## **29. Contributions to Fund**

- (1) Every security enterprise shall annually contribute a prescribed amount to the Fund, which amount shall be payable through SESORB before or on a prescribed date.
- (2) If a security enterprise fails to comply with subsection (1), SESORB may suspend its registration as a security enterprise until the amount owed by it is paid to SESORB, and if the relevant amount is not paid within three months from the date of suspension of the registration of the security enterprise, SESORB may withdraw such registration.

### 30. Payments from Fund

- (1) The moneys in the Fund shall, subject to subsections (2) and (3), be applied for the following purposes, namely -
  - (a) the compensation of any claim by any person for any monetary loss suffered by that person in respect of any money or property entrusted for protection or safeguarding to any security enterprise due to the theft or any other offence committed by a security officer who is the owner, or a director, member, partner or employee of such enterprise, or by any other employee not being a security officer, while on duty, of any money or property;
  - (b) the payment of the taxed costs of any action for the recovery of compensation referred to in paragraph (a);
  - (c) in the discretion of SESORB, a contribution towards expenses incurred by a claimant in establishing his or her claim;
  - (d) legal expenses incurred in defending a claim made against the Fund or otherwise incurred in relation to the Fund, including expenses incurred in the exercise of any right of action conferred by section 32;
  - (e) premiums payable in respect of contracts of insurance entered into by SESORB under section 28; and
  - (f) the expenses involved in the control of the Fund, including remuneration and allowances to members of SESORB in connection with the administration of the Fund.
- (2) No person shall be entitled to a claim from the Fund in terms of subsection (1) and payment of any such claim shall not be made from the Fund -
  - (a) before a date fixed by the Minister by notice in the Gazette as the date on which the liability of the Fund shall for the purpose of subsection (1) commence;
  - (b) if the cause of action arose before a date fixed under paragraph (a); and
  - (c) unless and until the claimant has exhausted all relevant rights of action and other legal remedies available against the security enterprise concerned and against all other persons liable in respect of the loss suffered by such claimant.
- (3) SESORB may, if it considers it necessary to do so, waive the requirement referred to in subsection (2)(c) in respect of any particular claim against a security enterprise, and thereafter such claim shall be proved in the prescribed manner as a valid claim before it is paid from the Fund.

### 31. Defence to claims against Fund

In any action brought against SESORB in respect of any claim against the Fund, any defence which would have been available to the security enterprise against whom the claim arose, shall be available to SESORB.

### 32. Transfer of rights of action

On payment out of the Fund of any moneys in settlement, whether in whole or in part, of any claim in terms of section 30(1), all the rights of the claimant against a security enterprise and any other person liable in respect of the loss of the claimant, shall devolve upon SESORB to the extent of the amount of such payment.

## Part V – FINANCIAL PROVISIONS

### 33. Bookkeeping and financial statements

- (1) SESORB shall keep separately -
  - (a) such accounting records as are necessary to reflect the transactions and financial state of SESORB; and
  - (b) such accounting records as are necessary to reflect the transactions and financial state of the Fund.
- (2) SESORB shall, in respect of each financial year of SESORB, subject to subsection (3), make out financial statements and cause such statements to be audited, and shall within six months after the end of that financial year submit copies of the audited statements to the Minister.
- (3) The financial statements referred to in subsection (2) shall consist of -
  - (a) a balance sheet, made out separately in respect of SESORB and the Fund, dealing with the assets and liabilities of SESORB and of the Fund;
  - (b) a statement of income and expenditure made out separately in respect of SESORB and the Fund; and
  - (c) such other statements as may be prescribed.

### 34. Auditing

- (1) The accounting records and annual financial statements of SESORB and of the Fund shall be audited annually by a person appointed by SESORB for that purpose.
- (2) A person shall not be appointed under subsection (1) unless he or she is registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act [No. 51 of 1951](#)), as an accountant and auditor and engaged in public practice.
- (3) The financial statements submitted to the Minister under section 33(2), shall be laid on the Table of the National Assembly by the Minister within 14 days after receipt thereof, if Parliament is then in ordinary session or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ordinary session.

### 35. Financial year

The financial year of SESORB shall be a year terminating on the last day of March.

## Part VI – GENERAL PROVISIONS

### 36. Preservation of secrecy

- (1) A member of SESORB or a person referred to in section 4(d) shall not disclose any information obtained by him or her in carrying out his or her functions, except -
  - (a) to the extent to which it may be necessary for the proper administration of the provisions of this Act;
  - (b) with the consent of the Minister; or
  - (c) for the purposes of any legal proceedings relating to a matter under this Act.



- (2) A person who fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

### 37. Offences and penalties

A person who -

- (a) in any application or enquiry under this Act furnishes information or makes a statement which is false in any material particular; or
- (b) holds himself or herself out as a security enterprise or a security officer while he or she is not registered under this Act;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

### 38. Regulations

- (1) The Minister may make regulations not inconsistent with this Act -
- (a) as to any matter required or permitted to be prescribed under this Act;
  - (b) prescribing the persons by whom the amounts and contributions referred to in sections 22(1) and 29(1), respectively, shall be collected on behalf of SESORB, as well as the manner in, and time within, which they shall be collected and paid to SESORB;
  - (c) relating to the training of security officers;
  - (d) prescribing the uniform, insignia and identification documents of security officers and prohibiting persons other than security officers registered as such, from wearing such uniform or insignia or carrying such identification documents;
  - (e) prescribing requirements for the identification of vehicles used by security organisations and security officers in the course of their duties;
  - (f) prescribing the procedure at disciplinary proceedings under this Act;
  - (g) relating to appeals in terms of this Act;
  - (h) relating to the charging of security officers of misconduct;
  - (i) relating, generally, to any matter which he or she considers necessary or expedient to prescribe for the attainment of the objects of this Act.

**[subsection (1) amended by Act 21 of 2002]**

- (2) Different regulations may be made under subsection (1) with reference to different categories of security officers.
- (3) Regulations made under subsection (1) may, in respect of any contravention of such regulations prescribe a penalty not exceeding a fine of N\$2 000 or imprisonment for a period not exceeding six months.

### 39. Delegation of powers of minister

- (1) The Minister may, upon such conditions as he or she considers fit, delegate any of the powers conferred upon him or her by this Act, except the power to make regulations or to hear appeals, to the Inspector-General of Police or a member of the Namibian Police Force designated by the Inspector General.

- (2) A delegation of any power under subsection (1) shall not prevent the exercise of such power by the Minister.

#### **40. Short title and commencement**

This Act shall be called the Security Enterprises and Security Officers Act, 1998, and shall come into operation on a date to be determined by the Minister by notice in the Gazette.

### **Schedule**

#### **(Sections 6(c), 17(a) and 20(a))**

1. High treason
2. Sabotage
3. Subversion
4. Intimidation
5. Murder
6. Culpable homicide involving an assault
7. Malicious injury to property
8. Public violence
9. Kidnapping
10. Child stealing
11. Rape
12. Indecent assault
13. Theft of game or stock (Including illegal hunting)
14. Robbery
15. Assault with intent to do grievous bodily harm
16. Arson
17. Breaking or entering any premises whether under common law or a statutory provision, with intent to commit an offence
18. Theft whether under common law or a statutory provision
19. Receiving stolen property knowing it to have been stolen
20. Fraud
21. Forgery or uttering a forged document knowing it to have been forged
22. Offences relating to the coinage
23. An offence under any law relating to illicit dealing in, selling or possession of unwrought precious metals or rough or uncut precious stones
24. An offence under any law relating to illegal dealing in, possession, conveyance or supply of dependence producing drugs
25. An offence under the Controlled Game Products Proclamation, 1980 (Proclamation No. AG 42 of 1980)
26. Conspiracy, incitement or attempt to commit any offence mentioned in this Schedule

27. Any offence not mentioned where dishonesty or force is an active element or in respect of which a sentence to imprisonment without the option of a fine is imposed