

**EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY ACT 2001 REGULATIONS (AMENDMENT)
REGULATIONS 2007**

2007 No. 2504

1. 1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The Private Security Industry Act 2001 Regulations (Amendment) Regulations 2007 make minor amendments to a number of Regulations made previously under the Private Security Industry Act 2001 (the “2001 Act”) in order to make provision for Scotland, reduce the annual registration fee for the Approved Contractor Scheme, clarify the scope of non-front line activity in which a licensed individual may engage, and replace the licence application form with a new form. It comes into force on 1 October 2007.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The 2001 Act received Royal Assent on 11 May 2001. Under the Act the Security Industry Authority (SIA) was created to regulate the private security industry in England and Wales, which it does on the basis of licensing individuals to perform activities licensable under the Act. Licensing has been introduced in England and Wales. The Serious Organised Crime and Police Act 2005 amended the 2001 Act to extend it to Scotland. Licensing under the Act will become mandatory in Scotland on 1 November 2007 under secondary legislation being brought forward in the Scottish Parliament.

4.2 In addition to the licensing requirements for individuals, Sections 14 and 15 of the 2001 Act require the SIA to make arrangements for the granting of approvals to, and registering of, companies providing security services through an Approved Contractor Scheme (ACS). Section 4(4) of the 2001 Act enables certain persons who work for an approved company to undertake licensable conduct without a licence so long as they have made an application for such a licence. The Private Security Industry Act 2001 (Approved Contractor Scheme) Regulations 2007 make provision for the ACS in England, Wales and Scotland (including fees to be paid by approved companies). The scheme is voluntary. Section 15(8) of the 2001 Act provides for fees to be prescribed in relation to the ACS. Regulation 5 of the 2007 Regulations prescribes an annual fee in respect of each person who carries out licensable conduct in the employment of a company with approved status.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The 2001 Act was intended to increase standards and remove criminality within the private security industry by introducing a regulatory regime that was proportionate to the risks posed to the public.

7.2 Section 3 of the 2001 Act requires persons to be licensed by the SIA when undertaking certain types of conduct. Section 4 provides for exemption from the licensing requirement where licensable conduct is engaged in by persons to whom suitable alternative arrangements will apply. The Private Security Industry Act 2001 (Exemption) (Aviation Security) Regulations 2006 exempt certain persons in England and Wales from the licensing requirement in section 3 of the 2001 Act on the basis that such arrangements are in place which make it unnecessary for those persons to be so licensed and specify the circumstances in which a person will be exempt in the case of certain activities relating to aviation security. Regulation 2 extends the scope of the exemption to Scotland.

7.3 Regulation 3 amends Regulation 5 of the Private Security Industry Act 2001 (Approved Contractor Scheme) Regulations 2007 to reduce from £20 to £17 the annual fee which a company approved under section 15 of the 2001 Act (i.e. under the Approved Contractor Scheme) must pay to the Authority in respect of each person who carries out licensable conduct on behalf of or under the direction of the company. The number of companies who joined the scheme for 2006 was 19% higher than the original projections, and covered 30% more licensable employees. This has led to potential over-recovery of costs of about £300,000 in 2007-08. Fees for services provided by public bodies are required to be kept under review, to ensure that they are set at a level to break even and the fee change reflects the requirement to charge no more than the amount required for the SIA to cover the costs associated with the related administration. The reduction is intended to achieve break-even level in 2007/08.

7.4 Regulation 4(1)(a) amends Regulation 7 of the Private Security Industry Act 2001 (Licences) Regulations 2007 to allow a licensed person to engage in non-front line licensable conduct in any other category of licensable activity. Regulation 7 of the 2007 Regulations makes provision for the scope of licences and in particular specifies where a licence in respect of one category of licensable activity will also be valid in respect of another category of licensable activity.

7.5 Regulation 4(1)(b) amends Regulation 8 to replace the form prescribed for the purposes of section 8(2)(a) of the Private Security Industry Act 2001 (the licence application form) with a new form, as set out in Schedule 1 to the Order. The new form reflects a number of improvements which have emerged from the SIA's experience in administering the scheme. The form remains largely the same. The main changes are the rearrangement of some sections and new requests for a passport number and driving licence number to facilitate identity checks. In addition it now enables applicants to apply for more than one licence on a single application form.

7.6 Regulation 4(2) is a transitional provision providing for applications using the existing application form to continue to be accepted until 31 March 2008. Without this provision

applications made on the old form and received after the change-over could not be accepted and would have to be returned to the applicant to be resubmitted on the new form.

8. Impact

8.1 We are issuing an impact assessment in respect of the change of ACS fee. This will be issued on the date this Order is laid. A copy is attached.

9. Contact

9.1 John Cairncross at the Home Office Telephone: 020 7035 0227 or e-mail: john.cairncross@homeoffice.gsi.gov.uk can answer any queries regarding these instruments, relating to England and Wales.

9.2 Iain Ross at the Scottish Executive, Telephone 01131 244 3988 or e-mail: Iain.Ross@scotland.gsi.gov.uk can answer any queries regarding these instruments, relating to Scotland.

Summary: Intervention & Options

Department /Agency:
**Home Office/Security
Industry Authority**

Title:
**Impact Assessment of Reduction of Annual Registration
Fee for the Approved Contractor Scheme**

Stage: Legislation

Version: 1

Date: 21 August 2007

Related Publications: Full Regulatory Impact Assessment 16 February 2006: Regulations to Implement the Private Security Industry Act 2001 in Respect of the Approved Contractor Scheme

Available to view or download at:

<http://www.homeoffice.gov.uk/about-us/publications/>

Contact for enquiries: PSI Team, Home Office

Telephone: 020 7035 0229

What is the problem under consideration? Why is government intervention necessary?

Companies approved by the Security Industry Authority (SIA) under the Approved Contractor Scheme (ACS) pay an annual registration fee based on the number of their employees licensed by the SIA. The number of companies who joined the ACS during 2006 was 19% higher and covered 30% more employees than originally projected. This could potentially lead to an over-recovery of costs of £300k in 2007-08. The fee, currently £20 per employee, therefore needs to be reduced.

What are the policy objectives and the intended effects?

Fees for services provided by public bodies are required to be kept at a level to break even. The objective is to better reflect the pattern of demand from the private security industry which has emerged since the ACS commenced in 2006, and to ensure, as far as possible, that the fees charged by the SIA in respect of registration under the ACS only enable it to break even, with the financial objective of full cost recovery.

What policy options have been considered? Please justify any preferred option.

- (i) Reduce the application fee (paid on application for approval): SIA have reviewed the scheme costs and found that this fee remains appropriate since the level of work and costs associated with applications remain as in previous assumptions;
- (ii) (Preferred) Reduce (from £20 to £17) the annual registration fee (per employee) covering the post-approval costs of ensuring that standards are maintained by all employees covered. These costs are projected to reduce in comparison to the work load due to economies of scale resulting from the higher than forecast level of membership of the Scheme.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The fee will be reviewed annually in line with Government policy on fees. This process would take into account any under or over-recovery in costs during the year following the fee change.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: (ii)	Description: Reduce (from £20 to £17) the annual registration fee per employee
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There is no change to the administrative processes for business and therefore no benefit in terms of reduced administrative costs. This is a reduction in the fee charged, which reduces the costs faced by business. The total value of the reduction is calculated at £3 x 99,000 licensed employees = approx - £300,00
	One-off (Transition)	Yrs	
	£ None		
	Average Annual Cost (excluding one-off)		
	£ - 300,000		
Total Cost (PV)			£ - 300,000
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' There is no change to the policy which the SIA enforces and thus no additional benefits to running the scheme. This change solely concerns a reduction in the fee charged.
	One-off	Yrs	
	£ None		
	Average Annual Benefit (excluding one-off)		
	£ None		
Total Benefit (PV)			£ Nil
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks This proposed fee level is derived from projections using the best evidence currently available to the SIA.

Price Base Year 0708	Time Period Years 1	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/A
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What is the geographic coverage of the policy/option?	Engl, Wales & Scotl			
On what date will the policy be implemented?	1 October 2007			
Which organisation(s) will enforce the policy?	SIA			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro N/A	Small N/A	Medium N/A	Large N/A
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £ Nil	Decrease of £ Nil	Net Impact £ Nil

Key:	Annual costs and benefits: Constant Prices	(Net) Present Value
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Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1.1 Introduction

The original fee proposal, contained in the **Full Regulatory Impact Assessment of 16 February 2006** (http://www.the-sia.org.uk/NR/rdonlyres/EA372332-8300-428C-8B71-DC71781D8E70/0/sia_acs_ria_v2.pdf) was put together prior to the start of the scheme using the best evidence available. One of its functions was to forecast the take-up by companies. The Scheme has now operated for 16 months and the SIA is now able to quantify better the demand, as well as the financial and staff resources required to operate the scheme.

2 Background

2.1 Description of the Scheme

The Security Industry Authority ('the SIA') is an NDPB established under the Private Security Industry Act 2001 ('the Act') to regulate the delivery of certain security services in England & Wales. The scope of services is broadly those delivered through personnel rather than through systems or equipment (except when used by a person.)

2.2 Private Security Industry Act

The Act requires the licensing of individuals carrying out certain specified security-related services and this is covered under separate proposals.

The Approved Contractor Scheme ('the Scheme') has been developed as a result of a separate part of the Act (sections 14 to 18), which places a duty on the SIA to, "establish a voluntary system of inspection of providers of security services, under which those which satisfactorily meet the agreed standards may be registered as approved, and may advertise themselves as such".

An additional benefit of the Scheme is to enable security firms to operate more efficiently in a post-licensing environment by providing a mechanism for firms to deploy staff with licence applications pending (which could take six weeks). It is an offence to deploy staff without a licence unless the SIA has given the firm a dispensation under the Scheme.

The Scheme is voluntary and competes with other commercially available accreditation schemes in the industry, because the power to prescribe a fee is given to the SIA by statute (the Act), the fee is defined as statutory. There are two elements to ACS fees, an application fee based on the size of the company and an annual registration fee based on numbers of licensable employees. Both these fees were set in early 2006, prior to the formal launch of ACS.

2.3 Financial Objective for the Scheme

The financial objective for the Scheme is full cost recovery. This is in accordance with the Treasury Guide to Fees & Charges. Costs include:

- Development costs ;
- Operational costs ;

- Overheads (staff related);
- Indirect costs incurred by the SIA eg corporate services (HR, IT, Finance, Marketing staff) costs and technology infrastructure.

The full annual cost of ACS, including application processing, for the year from 1st October 2007 is expected to be £1.77 million.

2.4 Demand forecast for 2007/08 v Original Fee Proposal

The number of companies who joined the scheme for 2006 was 19% higher than the original projections, and covered 30% more licensable employees. This has led to a significant over-recovery of costs - £661,000 in 2006-7 and potentially £300K in 2007-08.

Comparison with original assumptions

Year	Applications		No. of Approved companies		No of Licensable employees	
	Original Proposal	Current Forecast or Actual*	Original Proposal	Current Forecast or Actual*	Original Proposal	Current Forecast or Actual*
2006/7	393	467*	261	352*	66,813	87,625*
2007/8	79	100	261	400	66,813	99,000

Application fees generated

Size of company	Original Plan for 2007/8		Forecast for 2007/8	
	No of applications	Income £	No of applications	Income £
Micro	7	2,800	20	8,000
Small	24	19,200	46	36,800
Medium	53	84,800	26	41,600
Large	16	38,400	8	19,200
TOTAL	100	145,200	100	105,600

Licensable employees for Annual registration fees

Year	2007/8	2007/08	Comments
	Original Proposal	Latest Forecast	
2006/7	66,813	87,625	Actual numbers at 31/3/2007
2007/8	66,813	99,000	Forecast based on number at July 2007

The scheme has been very popular with companies and has exceeded the original demand forecasts. It is now into the second year and numbers are continuing to increase. Virtually all companies have renewed, increases are coming from the introduction of licensing & ACS to

Scotland and general growth in ACS companies. Demand forecasts are therefore based on current numbers and have a high level of certainty. There will be some additional growth through the year from Scotland and smaller companies joining, this is not expected to be material and will be picked up at future reviews.

2.5 Expenditure forecast for 2007/08 v Original Fee Proposal

Staffing for the scheme is in the process of being increased in line with the increase in companies and the number of licensable employees. There is also an increase in other operational cost, specifically legal advice and additional communications and awareness campaigns for purchasers of security services.

The costs of the individual services and the overall finances for ACS are shown below. The costings for application processing are based on the fee structure as originally proposed and currently in force. The fees for post approvals services are shown as a comparison of the original projection of demand using the current fee of £20 and of current projections using the reduced fee of £17. If the fee of £20 is used in the latter calculation it results in a surplus of about £300,000

Application Processing

	2007/8 ORIGINAL FEE PROPOSAL	2007/08 Year from 1/10 to 30/9/08
Assumptions		
Number of applications	78	100
Apportionment of ACS costs	5.10%	5.75%
Income	79,200	105,600
Expenditure		
Salary costs	19,300	31,058
Operational costs	10,984	18,722
Depreciation	15,497	15,458
Share of indirect costs	23,245	32,864
Recovery of start-up costs	3,065	3,505
	<u>72,091</u>	<u>101,607</u>
Surplus	7,109	3,993

Post Approvals services – Registrations

	2007/8	2007/08
	ORIGINAL FEE PROPOSAL	Year from 1/10 to 30/9/08
Assumptions		
Apportionment of ACS costs	94.90%	94.25%
Fee per licensable employee	£20	£17
Number of licensable employees	66,813	99,000
Income	1,336,260	1,683,000
Expenditure		
Salary costs	358,484	509,087
Operational costs (less salaries)	204,016	306,878
Depreciation	287,845	253,370
Share of indirect costs	431,755	538,690
Recovery of start-up costs	56,935	57,451
	<u>1,339,035</u>	<u>1,665,476</u>

2.6 Conclusion

We have considered the implications of the proposed cost reduction in respect of each of the above and concluded that there will be no impact. Any benefit from the cost reduction will be spread proportionately across all sizes of firms involved as the cost depends on the number of staff employed

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Home Office/Security Industry Authority

August 2007

<http://www.homeoffice.gov.uk/about-us/publications/regulatory-impact-assessments/#assess2007>