

THE REGULATION OF THE PRIVATE SECURITY INDUSTRY IN NORTHERN IRELAND

Introduction

The purpose of this paper is to provide a brief overview on the Draft Private Industry Act 2001 (Amendment) (NI) Order 2009 and to highlight the issues that arose within the consultation paper, '*Regulating the Private Security Industry in Northern Ireland, 2006.*' The Annex to this paper highlights the difference between Schedule 13 of the Terrorism Act 2000 and The Private Security Industry Act in what categories of persons are required to have a licence.

The remit of the Security Industry Authority (SIA) is to be extended to Northern Ireland in 2009, creating a single regulatory scheme for the private security industry throughout the United Kingdom. The proposal to extend the remit of the SIA to Northern Ireland was put out for public consultation by the Northern Ireland Office in August 2006. The results showed an overwhelming desire within the industry for regulation and that this should be in line with best practice in Great Britain.

After December 2009, it will be illegal to engage in licensable conduct in Northern Ireland without a licence from SIA. Current interim arrangements, under the Justice and Security (Northern Ireland) Act 2007, require persons offering or providing security guards services for reward to obtain a licence from the Secretary of State.

Regulating the Private Security Industry in Northern Ireland: A Consultation paper, 2006¹

In November 2006 a consultation: '*Regulating the Private Security Industry in Northern Ireland* was established in response to the lack of through and permanent regulatory framework in Northern Ireland. This lack of framework had increased the number of '*unscrupulous operators who have exploited the potential for profit either for their own personal gain, or for the gain of paramilitary organisations.*'²

During the time of the consultation the private security industry in Northern Ireland was regulated under the provisions of Schedule 13 to the Terrorism Act 2000³, part VIII of the Act contained the temporary provisions relating to Northern Ireland.

Schedule 13 defines 'security services' as the services of one or more individuals as security guards) whether or not provided together with other services relating to the

¹ http://www.nio.gov.uk/regulating_the_private_security_industry_in_northern_ireland.pdf

² Ibid

³ http://www.opsi.gov.uk/acts/acts2000/ukpga_20000011_en_1

protection of property or persons). The grant of the licence is contingent upon the directors, partners or sole trader satisfying the Secretary of State that a proscribed organisation, or an organisation closely associated with a proscribed organisation, would not benefit from the granting of a licence whether directly or indirectly, financially or otherwise.⁴ Schedule 13 was repealed in July 2007 and was replaced with the interim arrangement under the Justice and Security (Northern Ireland) Act 2007⁵ which required persons offering or providing security guard services for reward to obtain a licence from the Secretary of State. Schedule 13, section 7 is contained within the annex of this paper

The report identified weaknesses in the regulation of the private security industry in Northern Ireland:⁶

- Schedule 13 was not working effectively and did not promote best practice. No set criteria relating to the vetting for convictions, professional standards or levels of training;
- Following permanent regulation elsewhere in the UK and Ireland, Northern Ireland companies find themselves on an unequal footing with the rest of the industry in the UK. This makes it hard for Northern Ireland companies to compete outside of this jurisdiction;
- The fifth report of the Independent Monitoring Commission stated that there was direct evidence of paramilitary involvement in the private security industry in Northern Ireland. The report stated that the private security industry in Northern Ireland should be dealt with '*as a matter of priority.*'

Options for regulation were:⁷

- *Do nothing*
No new legislation would be required; the onus would be on companies to adopt a self-regulation policy;
- *Create a permanent version of Schedule 13*
Legislation would be drafted in to put the provisions contained in Schedule 13 on permanent footing. The NIO would continue to grant licences to applicants who satisfy the criteria;
- *Extend the remit of the SIA to Northern Ireland*
A system of regulation similar or identical to that which exists in England and Wales would be adopted; or
- *Set up a dedicated Northern Ireland Agency*
The establishment of a dedicated private security agency in Northern Ireland to govern and set standards among the industry. The Agency would have an authoritative role similar to SIA and would be responsible for the issuing of licences and enforcement of standards in the industry, but would be tailored to the specific needs of Northern Ireland

⁴ http://www.nio.gov.uk/regulating_the_private_security_industry_in_northern_ireland.pdf

⁵ http://www.opsi.gov.uk/acts/acts2007/ukpga_20070006_en_1

⁶ http://www.nio.gov.uk/regulating_the_private_security_industry_in_northern_ireland.pdf

⁷ Proposals to Regulate the Private Security Industry in Northern Ireland, Final Regulatory Assessment, November 2006: http://www.the-sia.org.uk/NR/rdonlyres/SAA8D0D7-92D6-40A0-8DAD-7B5531CD34AD/0/northern_ireland_ria.pdf

Small firms Impact Test

The 'Proposals to Regulate the Private Security Industry in Northern Ireland, final regulatory impact assessment,' stated that the initial informal consultations with private security companies in Northern Ireland affirmed that a permanent form of regulation would be welcomed. The impact of regulation on the private sector is positive as it will improve the competitiveness on a North/South, East/West basis. Many private security companies indicated that their preferred option for regulation would be the SIA.

The report highlighted that businesses that seek the services of private security companies are unlikely to be adversely affected by regulation and will benefit from assurance that all staff will be appropriately trained.

Summary of the Consultation

The Government decided, as a result of the consultation, that the most effective choice would be to extend the remit of the SIA to Northern Ireland which would ensure that standards are equal throughout the UK, increasing Northern Ireland's ability to operate and compete on a national basis. The overarching aim of regulation is to reduce offending in the private security industry, protecting people from crime and giving the public greater confidence in the industry.

The report identified a strong trend throughout the responses was the need for a joined- up approach between the SIA and the Private Security Authority (PSA), the Irish regulatory body. Cooperation between these two authorities should allow ease of all-Ireland work within the private security industry.

There were respondents which disagreed with the Government's proposals to extend remit of the SIA and argued that it would be a costly venture, placing a heavy burden on the industry in relation to training and licensing. Enforcement issues were raised and some felt a dedicated Northern Ireland agency would have greater success.

The Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009

The purpose of the Act is to make a number of minor amendments to the Private Security Industry Act 2001, which sets up a regulatory regime for the private security industry. These amendments insert references to Northern Ireland legislation into the Act, which has recently been extended to Northern Ireland under The Private Security Industry Act 2001 (Commencement No.2) (Northern Ireland) Order 2009. The Order also amends the 2001 Act to take account of Northern Ireland legislation relating to sports grounds and licensing law.

The Home Office clarified that in England and Wales, certain security operatives at sports grounds under specific circumstances are exempt from regulation by the SIA and this is mirrored within the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009.⁸

⁸ Proposals to Regulate the Private Security Industry in Northern Ireland, Final Regulatory Assessment, November 2006: http://www.the-sia.org.uk/NR/rdonlyres/SAA8D0D7-92D6-40A0-8DAD-7B5531CD34AD/0/northern_ireland_ria.pdf

The Security Industry Authority (SIA)⁹

The Security Industry Authority (the Authority) was established in April 2003, under the Private Security Industry Act 2001. The Authority's two key roles are to:

- Reduce criminality in the security industry; and
- To improve security standards

The SIA has carried out these roles primarily by licensing individuals who work as security guards, and all types of door supervisors and vehicle immobilisers.

In order to implement the extension of the SIA in Northern Ireland the SIA has initiated a project board to manage the delivery of the project, under the Chairmanship of Andy Drane, SIA Deputy Chief Executive. The board includes senior representatives from the Northern Ireland Office and the Police Service of Northern Ireland. There is also a senior observer from the Private Security Authority, which regulates in the Republic of Ireland.

Key Dates¹⁰

January 2009	Training leading to the SIA approved qualifications available in Northern Ireland.
May 2009	The SIA will be accepting licence applications and application to the Approved Contractor Scheme (ACS).
December 2009	It will become illegal to work in certain designated roles in Northern Ireland without a licence*.

The National Audit Office- Regulating the security industry¹¹

The National Audit Office published a report in 2008; 'Regulating the security industry,' which analysed the success of the SIA. The report identified how the computerised systems were unable to cope with the level of applications and that this resulted in a backlog of applications. The report stated that this led to the Authority incurring additional costs of over £1 million. However, the report was positive about the 'Approved Contractor Scheme' and stated it was successful in delivering the Authority's statutory duty to improve standards in the private security industry.

The report recommended that the Authority needs to improve its strategic and operational planning to deal with future challenges successfully and identified these as:

- The large numbers of licences to be renewed in 2008-09;
- New sectors and regions to be regulated;
- The management and re-tendering of its managed service contract;
- Maintaining the quality of its Approved Contractor Scheme; and
- The successful regulation of security at the 2012 Olympic Games.

⁹ <http://www.the-sia.org.uk>

¹⁰ SIA Regulation in Northern Ireland: http://www.the-sia.org.uk/home/northern_ireland/

¹¹ Executive summary, 'Regulating the security industry':
http://www.nao.org.uk/publications/0708/regulating_security_industry.aspx

Research project: Privatisation and the Regulation of Domestic Security¹²

Professor Martin Smith and Mr Adam White, from the Department of Politics at Sheffield University, have received a research grant (October 2008-March 2010) to examine the changing networks of security in Britain, with a specific emphasis on the emerging role of the SIA in its role as the regulator of the private security industry.

The research project identified two critical questions to be considered:

- To what extent is security provision being brought into the orbit of state authority and delivered as a genuine public good?; and
- Does the SIA have the capability to regulate the vast number of security suppliers operating within Britain in the 21st Century? (in relation to the upcoming 2012 Olympics)¹³

¹² <http://www.sheffield.ac.uk/politics/research/projects.html>

¹³ <http://www.sheffield.ac.uk/politics/research/projects.html>

ANNEX

Schedule 13 of the Terrorism Act 2000¹⁴

PRIVATE SECURITY SERVICES

Security services: interpretation

1 In this Schedule “security services” means the services of one or more individuals as security guards (whether or not provided together with other services relating to the protection of property or persons).

Unlicensed services: offences

2 A person commits an offence if he provides or offers to provide security services for reward unless he—

- (a) holds a licence under this Schedule, or
- (b) acts on behalf of someone who holds a licence under this Schedule

Explanatory note- The Private Industry Act 2001¹⁵

Under Section 3 of the 2001 Act the following categories of people will need to have licences:

- security contractors, directors of security companies and partners of security firms;
- employees of security contractors, security companies and security firms;
- agency operatives, whether they are directors or partners of the agency, employees of the agency or individuals who work for the agency on a contract basis;
- employees who manage or supervise security operatives supplied under contract by a security contractor, a security company or a security firm or by an agency;
- agency-supplied managers or supervisors of security operatives supplied under contract;
- directors of security companies and partners of security firms who do not themselves carry out designated activities;
- in-house door supervisors and wheel clampers and their employers, managers and supervisors;
- others who wheel clamp vehicles on private land against a release fee.

May 2009

¹⁴ http://www.opsi.gov.uk/acts/acts2000/ukpga_20000011_en_25

¹⁵ http://www.opsi.gov.uk/acts/acts2001/en/ukpgaen_20010012_en_1

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