

EXPLANATORY MEMORANDUM TO
THE REHABILITATION OF OFFENDERS ACT 1974 (EXCEPTIONS)
(AMENDMENT NO. 2) (ENGLAND AND WALES) ORDER 2006

2006 No. 3290

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

2. Description

2.1 The purpose of this Order is to amend the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (“the 1975 Order”). The amendments made by this Order add a new body (the Football League), its decisions and appeal proceedings to those which qualify for disclosure of spent conviction information in respect of football security activities and amend the circumstances in which two other bodies (the Football Association and the Football Association Premier League), their decisions and proceedings qualify in respect of those activities.

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

3.1 None.

4. Legislative Background

4.1 The Rehabilitation of Offenders Act 1974 (“the 1974 Act”) introduced limitations on the requirement to disclose previous convictions. After a specified period of time, certain convictions become ‘spent’ under the 1974 Act and are no longer required to be disclosed to employers and various other bodies.

4.2 The 1975 Order was introduced to balance the rights of ex-offenders under the 1974 Act with the aim of protecting the public. Although it can be desirable to encourage employment of ex-offenders by allowing their convictions to become spent, there are certain positions where disclosure of all convictions should be made available when requested. The 1975 Order removes the protection afforded by the 1974 Act with regard to positions, licences, bodies and proceedings of a sensitive nature.

4.3 The 1975 Order is amended periodically to ensure that the criminal disclosure regime keeps pace with changes in public risk. The most recent amendment was made in July 2006. This Amendment makes further minor changes to the 1975 Order which relate to the football sector.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 The Home Office Parliamentary Under-Secretary, Vernon Coaker, has made the following statement regarding Human Rights:

In my view the provisions of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment No. 2) (England and Wales) Order 2006 are compatible with the Convention rights.

7. Policy Background

7.1 Ministers agreed in September 2005 to exempt football security staff from the need to be licensed under the Private Security Industry Act 2001 (“the 2001 Act”) by making regulations under section 4 of that Act. Those regulations could only be made where suitable alternative arrangements were in place, which required Criminal Records Bureau (CRB) checks to be undertaken on behalf of the football authorities. Therefore the 1975 Order was amended in July 2006 to give the CRB the power to undertake checks on football security staff on behalf of the Football Association and Football Association Premier League for the purposes of granting that exemption.

7.2 Ministers subsequently decided to exempt football security staff through primary legislation in response to an amendment to that effect which was tabled to the Violent Crime Reduction Bill. Consequently, football security staff will be exempt from the licensing requirement under the 2001 Act due to the terms of section 4 of that Act (as amended) rather than to regulations made under that provision. This came into effect when the Violent Crime Reduction Act received Royal Assent on 8 November 2006.

7.3 The amendment to section 4 of the 2001 Act does not impose a legal requirement on the football sector to have in place suitable alternative arrangements. The football sector has undertaken to work voluntarily to the same standards that would have applied under the exemption regulations and therefore to undertake CRB checks voluntarily. Since the wording of the amendment made in July to the 1975 Order only gave the CRB power to check the criminal records of football security staff for the purpose of an exemption granted by regulations under section 4 of the Act, an amendment must be made to enable such voluntary checks to take place.

7.4 The Order which was made in July gave the CRB the power to undertake checks on behalf of the Football Association and the Football Association Premier League. Ministers have since agreed that the Football League should also be added to the Order.

8. Impact

8.1 A ‘Regulatory Impact Assessment on Football Stewards and the Private Security Industry Act 2001’ was previously published in September 2005.

8.2 A further partial RIA on ‘Security Guards at Sports and other Events and the Private Security Industry Act 2001’ was published in March 2006. The full RIA 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 the instrument..

FULL REGULATORY IMPACT ASSESSMENT

November 2006

**SECURITY GUARDS AT SPORTS AND OTHER EVENTS AND
THE PRIVATE SECURITY INDUSTRY ACT 2001**

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1 Purpose and intended effect

1.1 Objective

1. The Private Security Industry Act (PSIA) 2001 provides for the licensing, by the Security Industry Authority (SIA), of a number of activities in the private security industry.
2. A number of issues have arisen with the PSIA and its application within the sports and events sector. These stem largely from a perception of over-regulation, disproportionate to the perceived level of risk, and confusion about exactly how and where the PSIA imposes a regulatory requirement within the sector. It was always intended that the sports and events sector should fall within the remit of the PSIA. However, it is acknowledged that information that has subsequently come to light has meant that a review of this intention is both timely and appropriate.
3. This Regulatory Impact Assessment (RIA) considers the options for resolving confusion and concerns in respect of the PSIA as it applies to the sports and events sector. It sets out the Government's preferred option for moving forward and a framework for achieving this.

1.2 Background

4. Regulation of the private security industry was originally proposed for the following reasons:
 - To vet people within the industry and, in particular, to exclude criminal elements to ensure public protection;
 - To help raise standards and ensure greater consistency within the industry;
 - To recognise companies providing a satisfactory service as measured against agreed standards (now known as the Approved Contractor Scheme).
5. Additionally, it has been recognised that a more professional security industry will be able to play a wider role in securing community safety, supporting the Government's commitment to a partnership approach to crime and disorder.
6. The PSIA provides for the regulation of a number of sectors in the private security industry through a framework of controls. The Act has also provided for the creation of the SIA as a non-departmental public body. The SIA's statutory functions are to:
 - License individuals in specific sectors and to approve companies;
 - Keep under review the private security industry and the operation of the legislative framework;
 - Monitor the activities and effectiveness of those working in the industry;

- Conduct inspections;
- Set or approve standards of conduct, training and supervision within the industry; and
- Make recommendations to improve standards.

7. The perceived benefits of licensing individuals working in the private security industry include:

- To drive out criminality in the industry;
- To protect the public; and
- To standardise and professionalise working practices.

8. The Act was preceded by a White Paper (CM4254) which included an initial RIA, looking at the high level risks and costs and benefits of the regulation under a number of options. Regulation has been introduced progressively, both across industry sectors and geographical areas. The PSIA has been the subject of a number of RIAs:

July 2003	<i>Private Security Industry: further consultation on proposals to regulate the industry</i>
January 2004 & January 2005	<i>Regulations to implement the PSIA 2001 in respect of door supervisors and vehicle immobilisers</i>
February 2005	<i>Regulations to implement the PSIA 2001 in respect of manned guards and keyholders</i>
September 2005	<i>Football stewards and the PSIA</i>
February 2006	<i>Regulations to implement the PSIA 2001 in respect of the approved contractor scheme</i>

9. This RIA is looking specifically at two kinds of licences – door supervisor licences and security licences – their application within the sports and events sector, and how the existing legislation needs to be amended and/or clarified to best meet the needs of those within the sector and the private security industry without loss of public protection. It follows a partial RIA that was issued for consultation in March 2006.

1.2.1 Application of licensing regime

10. ‘Manned guarding’ is defined under Schedule 2, Paragraph 2 of the PSIA as:

- 1 Guarding **premises** against unauthorised access or occupation, against outbreaks of disorder or against damage;

- 2 Guarding **property** against destruction or damage, against being stolen or against being otherwise dishonestly taken or obtained; and
- 3 Guarding one or more **individuals** against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

11. From April 2005, door supervision (manned guarding on licensed premises) has been licensable for both contractors and in-house staff across England and Wales.

12. With effect from 20 March 2006, anyone involved in providing or carrying out **under contract** 'manned guarding' (on an unlicensed premises) is required to hold a **security licence** (if on non-licensed premises).

13. Accordingly, supplying or performing any of the licensable activities without the relevant licence from the SIA have become criminal offences.

14. PSIA policy is the responsibility of the Home Office. The Act is enforced by the SIA, local police and other enforcement agencies.

15. As of 25 October 2006, the following numbers of people were eligible for licensing, waiting to be licensed, or already licensed by the SIA¹. A small percentage of people have their applications refused, usually because of unacceptable criminal records. It is not known exactly how many of these work either uniquely or occasionally in the sports and events sector, or how many are in-house as opposed to contract staff.

Type of licence	Number of security qualifications held	Applications on system	Licences granted	Licences refused
Door supervisor ²	116,560	75,364	58,762	3,310 (5.3%)
Security	133,672	107,427	89,495	2,084 (2.3%)

1.3 Rationale for government intervention

16. The application of the licensing provisions of the Act to the sports and events sector has raised a number of issues. Some sports stakeholders have argued that the sector should not be included within the scope of the Act; that the drafting of the Act does not recognise that the sports and events sector is of a different nature from other sectors covered by the licensing provisions; and that it is believed that a number of suitable control measures are already

¹ www.the-sia.org.uk/home/licensing/stats.htm

² Because of licence integration, individuals holding a door supervisor licence can also work as a security guard

in place in the sector which could go some way towards satisfying the main objectives of the Act.

17. However, there are similarly strong views among the wider private security industry (and other stakeholders) that sports and events security staff are – and always have been – firmly within the scope of the Act and should, therefore, be licensed.

18. The SIA's standpoint is that security guarding activity, as undertaken within the sports and events sector, meets the definition of manned guarding set out in Schedule 2 to the Act and, under the existing legislation, is therefore licensable. It was originally the intent of Parliament that all security operatives meeting the definition should be covered by the licensing regime, regardless of location.

19. Last year, Ministers met representatives from the sports industry on a number of occasions in an attempt to clarify policy and resolve the situation. In September 2005, Ministers announced their decision to grant football an exemption from the legislation in relation to in-house employees, on the grounds that its processes offer 'equivalent protection' to the public to those of the SIA **when** prerequisite conditions were met. This exemption is not currently in effect. In March, the Home Office issued a consultation paper to seek views on whether (and if so, how) the 2001 Act should continue to apply to the sports sector in general, and to other kinds of non-sporting events.

20. Many areas of the sports and events sector are not complying with the PSIA as it currently applies. In some cases, this is due to genuine confusion about who does and does not need to be licensed. In others, it may be because premises and individuals have postponed licensing pending the outcome of the consultation exercise and this RIA.

21. There is firm – and public – government commitment to upholding compliance with the current law while resolving the current dissatisfaction and confusion with the licensing regime as it applies to sports and events. This RIA is therefore pivotal in ensuring the most appropriate action is taken to move forward.

2 Consultation

22. A consultation exercise on a partial RIA of security guards at sports and other events was conducted between March and June 2006, inviting stakeholders to comment on a number of options and put forward any other concerns or issues.

23. The partial RIA was available via the Home Office website, and was sent personally to key stakeholder bodies. A total of 30 responses were received by the closing date of 16th June.

24. In addition, stakeholders were consulted through formal and informal networks, including meetings with the SIA, DCMS and sports sector representatives.

25. The Home Office worked closely with the SIA throughout the consultation period.

2.1 Within Government

26. The Government departments consulted on the partial RIA were:

Cabinet Office (including the Better Regulation Executive	The Foreign and Commonwealth Office	Department for Trade and Industry
Department for Culture, Media and Skills	Department of Health	Northern Ireland Office
Wales Office	Department for Constitutional Affairs	Department for International Development
Department for Education and Skills	Department for Communities and Local Government	Department for Work and Pensions
Department of Environment, Food and Rural Affairs	Ministry of Defence	Department for Transport
Scotland Office	Attorney General's Office	

2.2 Public consultation

27. Although the partial RIA was available to anyone who wished to provide input, the consultation exercise was specifically aimed at getting input from key stakeholder bodies, including:

- Association of Chief Police Officers (ACPO);

- British Security Industry Association;
- Central Council of Physical Recreation;
- Events organisers;
- Football Licensing Authority;
- Major spectator sports (including the Football Association, Premier League, Rugby Football Union, England and Wales Cricket Board, All England Lawn Tennis and Croquet Club, Racecourse Association Ltd);
- Security contractor firms; and
- Security industry trainers.

28. A full list of consultation respondents can be found at Appendix A to the consultation summary, which is appended to this document.

2.2.1 Consultation summary – headline findings

29. A consultation summary is to be published alongside the RIA, and the executive summary is appended to this document (Appendix B). The headline findings from the consultation are that:

- There was a broad range of views from across the spectrum of consultation respondents, including those who were in favour of the licensing regime as it stands, to those who were still unsure about how it applied and what the implications were for them, to those with strong opposition.
- The definition of ‘manned guarding’ activity (as set out in Schedule 2, Paragraph 2 to the Act) was generally accepted; however, interpretation of this definition (and therefore of the scope and intention of the Act) was very varied. So, for example, although a number of respondents considered that they were successfully risk-assessing all security and stewarding roles (according to the definition of ‘manned guarding’ activity) and ensuring staff were licensed accordingly, others reported (or demonstrated through their answers) that they were still unclear how to do this.
- The strongest view to come from the sports sector in general was the perception of duplication caused by the SIA licensing regime for those sports grounds already covered by a safety certificate (issued under either the Safety of Sports Grounds Act 1975 or the Fire Safety and Safety of Places of Sport Act 1987). It was considered by these consultees that the level of safety and security ensured by the conditions (and enforcement) of safety certificates was already sufficient, and to impose further licensing requirements would be disproportionate to the level of risk.

- The difference between 'exemption' and 'exclusion' (as per options 1 and 2 of the partial RIA and options 2 and 3 below) was not always understood, and there were some concerns about blanket exclusions for multi-purpose premises. Those from the sports sector in particular were strongly supportive of exclusion for in-house sports grounds security staff, and some events organisers also considered that the low risk nature of their events should make them eligible for exemption or exclusion. However, some from within the private security industry considered that this could create a two-tier system that would not be in the public's interest.
- A separate licensing regime for sports and events was only supported by a small number of respondents.

3 Options

30. This section sets out the five options proposed in the partial RIA, including the ‘no change’ option. Based on further work conducted since the partial RIA and the analysis of consultation responses, we outline the pros and cons of each before presenting our recommendations for the way forward. The following section provides a more detailed cost / benefit evaluation for this recommended way forward.

3.1 Option 1: ‘No change’

31. Under option 1, the 2001 Act remains in force, and all in-house and contracted security staff currently within the remit of the Act will be required to obtain SIA licences if they have not already done so. The legislation will remain untouched and there will be no further provision for exemption, exclusion, or removal of activities from the Act.

3.1.1 Pros

- No further work required;
- Achieves Parliament’s intention for the PSIA of security operatives being licensed regardless of deployment location.
- Licensing requirement applied identically across all sectors.

3.1.2 Cons

- Perpetuation of the current uncertainty around the licensing remit – no chance of resolving this if no intervention;
- Continued duplication of some elements of regulation for those sports grounds with safety certificates;
- Lack of support for the licensing regime from the sports and events sector;
- Poor relationship between sports and events sector and the government / regulatory side.

3.2 Option 2: Exemption for specific sports and events where suitable alternative arrangements exist

32. The 2001 Act already recognises that people undertaking security duties do not need to be licensed under the Act where suitable alternative arrangements are already in place which are sufficient to ensure equivalent protection of the public. The provisions for this are set out in Section 4 (1) of the Act, which provides for the Secretary of State to make regulations to prescribe circumstances in which persons will be exempt from the requirement to have a licence to undertake licensable conduct. He can only do this where he is satisfied that there are circumstances in which activities of licensable conduct are engaged in by people to whom “suitable alternative arrangements” will apply **and** he is satisfied that “as a consequence” it is

unnecessary for people undertaking those activities to be required to be licensed. An exemption can apply to in-house or contract operatives or both³.

33. Specifically for the sports and events sector, it is proposed that exemption from the Act would apply to **in-house** staff only, when working in the following roles in relation to licensed areas:

- Staff undertaking ‘manned guarding’ activities; and
- Supervisors of such staff.

3.2.1 Pros

- A long-term solution;
- Supports the better regulation agenda by ensuring risk-based and proportionate licensing arrangements for those with equivalent arrangements in place;
- Could make the best use of existing arrangements for some areas of the sector (namely football);
- Section 4 of the Act provides a clear test and threshold that suitable alternative arrangements are in place. All future applications will be considered – in a consistent way – in light of this test⁴;
- A Statutory Instrument amending the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 has been passed that enables the FA and Premier League to request CRB checks for the purposes of an exemption granted by regulations under section 4 of the PSIA; this therefore ensures that suitable alternative arrangements are in place for the purposes of making exemption regulations under section 4.

3.2.2 Cons

- Currently no regulatory bodies (other than the FLA) which would qualify as providing ‘suitable alternative arrangements’, so would be impossible to award exemption to any part of the sector other than football;
- Perception that exemption could create a ‘two-tier’ system – both across the sector and between in-house and contracted security staff.
- The Statutory Instrument amending the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 does not extend to sporting bodies other than football.

³ http://www.the-sia.org.uk/NR/rdonlyres/ED46549D-A634-4FCB-9F36-D42621C77709/0/sia_exemption_framework.pdf

3.3 Option 3: Exclusion for premises

34. Schedule 2 Part 2 paragraph 8 (3)(d) of the PSIA allows for the exclusion of premises from the definition of licensed premises (as set out in paragraph 8). Where manned guarding activities are undertaken in relation to licensed premises (door supervisors) they are subject to additional controls and therefore the licensable conduct in section 3(2)(g)(h) and (i) (which relates to in-house staff rather than contractors) of the Act must also be licensed. The effect of excluding premises from the definition of licensed premises is that it would enable the vast majority of in-house staff (a small number of in-house staff must also be licensed under section 3(2)(a) to (f) of the PSIA) to undertake manned guarding activities on licensed premises (door supervision) without a licence. However, those who undertake manned guarding activities in relation to licensed premises (door supervisors) under contract or as in-house staff falling under section 3(2)(a) to (f) would still be required to be licensed.

35. The Act does not prescribe any conditions for the exercise of this power, and it is therefore subject to the usual requirements of law that it be reasonable, within vires, and procedurally fair.

3.3.1 Pros

- Provides a long-term solution for most in-house sports security staff;
- The terms and conditions set by safety certificates and the Licensing Act 2003 require comprehensive risk assessment of both safety and security for all events held at the grounds. In the last 16 years there has been no need to serve a single prohibition notice to any sports ground with a safety certificate for reasons of misconduct by ground staff;
- Under the terms of safety certificates there is already a joined-up approach to risk assessment, involving organisers, local authorities, local police and other partners;
- Would address many of the concerns raised by the sports sector;
- Has support from many key sports stakeholders;
- An exclusions framework would provide a consistent basis for decisions to be made;
- Ensures that additional controls should have an effect only where they provide additional public security without imposing a disproportionate burden on business;

3.3.2 Cons

- May be difficult to demonstrate transparency in decision-making about exclusions;
- No comparable exclusions route has so far been available to other sectors covered by the PSIA, which may cause perceptions of inequality;

- There is no requirement for CRB checks under an exclusion, therefore previous criminal behaviour of staff may go undetected;
- The provision would need to be applied consistently across the sector and a framework would need to be developed for doing this to provide sufficient evidence for exclusion.

3.4 Option 4: Removal of specific activities of ‘security guard’ from the generic description of manned guarding

36. Schedule 2 Part 1 paragraph 1 (2) allows for both the addition and exclusion of specific activities regarded for the purposes of this Act as being subject to licensable control. This could therefore permit the removal of certain activities from the definition of manned guarding. These activities can be defined by reference to the circumstances in which they are undertaken or the people by whom they are undertaken.

37. Under this option therefore, the definition of ‘manned guarding’ would be revisited to explore whether there are any (currently licensable) generic security guarding activities that should not apply to the sports and events sector.

3.4.1 Pros

- Could be used to redefine or re-label existing definitions to make them more meaningful and applicable to the sports and events sector;
- Would explicitly remove certain activities rather than leaving them open to different interpretations;
- Could reduce the licensing burden on sports and events premises and organisers.

3.4.2 Cons

- The PSIA licenses on the basis of ‘designated activity’ – to change this definition of ‘designated activity’ to suit one group of stakeholders could have unintended consequences on others;
- It could be argued that the basic premise of the legislation has been changed in response to one particular argument;
- It is very difficult to agree generic definitions for security guarding – one event’s ‘response team’ could be another event’s ‘safety stewards’;
- The consultation exercise demonstrated that the definition of ‘manned guarding’ (as set out in the Act) is not in dispute – it is the application of this definition to event-specific roles that is inconsistent across the sector.

3.5 Option 5: Introducing a specific 'event' licence by the SIA

38. Some stakeholders have argued a case for the development of a licence and training / qualifications package that is specific to the sports and events sector. They have expressed concerns that:

- The Act does not take into account the particular features of the sports and events sector;
- The definitions used are not easy to relate to the roles needed in the sports and events sector; and
- The door supervisor and manned guard training is not comprehensive enough for those working within the sector.

39. The legislation does allow various ways of providing a licensing regime tailored to the sector, for example:

- Creating a separate licensable sector of sports/events security within the Private Security Industry Act 2001; or
- Creating a sub-sector of security guards for sports/events security within the Private Security Industry Act 2001.

40. This option sought views on the appropriateness of developing a licence for security personnel specific to the sports and events sector.

3.5.1 Pros

- A specific licence could take into account particular features of the sports and events sector;
- Definitions of licensable activities and roles could be used that are more applicable to the sector;
- A new licensing regime would require the development of an appropriate competency framework, and an accompanying training and qualification programme (but in line with all other sectors licensed by the SIA, appropriate existing qualifications and training would be considered if of a relevant standard);
- It could assist with developing a more professional industry, with an appealing career path for security operatives with specific skills in the sports and events sector.

3.5.2 Cons

- There was little support for the idea of a specific licence from the consultation exercise;
- The sports and events sector was seen by some as too diverse for a specific, catch-all licence;

- As a solution to the current confusion, it would not necessarily provide clarification or simplification to the current scope and application of the licensing regime;
- Further consideration of integration of standards would have to be undertaken, or security operatives working across sectors (or those operating within the sports and events sector who are already licensed) could find themselves needing an additional licence;
- A new and separate regime could impose additional bureaucracy which would be contrary to the principles of better regulation.

3.6 Recommendation

41. The key issues arising from the consultation period, and that need to be addressed in the recommendations for moving forward are:

- Ensuring definitions, scope and application of the Act are understood fully by all with responsibility for being compliant;
- Preventing duplication potentially caused by the requirements of the Safety of Sports Grounds Act 1975 or the Fire Safety and Safety of Places of Sport Act 1987;
- Ensuring maintenance of standards and achievement of the objectives of the Act, including improved public protection;
- Ensuring that regulation is risk-based, proportionate, and in line with the principles of better regulation.

42. We believe that what is needed is a transparent and robust way to additionally remove specific individuals from the scope of the licensing regime, thereby reducing the burden of the legislation and avoiding duplication but without any consequent reduction in quality or increase in risk. Our recommendation is therefore multipartite:

- Amendment of the PSIA (by using the Violent Crime Reduction Bill) to remove in-house security staff in premises with safety certificates from the licensing requirement of the Act when they undertake activities for purposes for which that safety certificate has effect;
- Publication of an exclusions framework within which other sectors can apply for exclusion of in-house security staff;
- Option 1 ('no change') for all other premises / staff; and
- The production and circulation of clear and joined-up guidance.

3.6.1 Justification for recommendation

43. The consultation responses demonstrate the divergence of views and the current level of confusion and uncertainty about the provisions of the PSIA. However, there is also support for the aims of the PSIA, and recognition that

licensing is both appropriate and beneficial in certain situations. Some action therefore needs to be taken or this dichotomy will persist.

44. We believe that with a better understanding of the Act, and greater individual confidence in interpreting and applying it, many of the more significant concerns about the numbers and associated costs of licences required could be allayed. There was broad agreement with the definition of 'manned guarding' activity as set out in Schedule 2, Paragraph 2, to the Act, so we do not consider that there is a need to remove any of the specific activities of 'security guard' from the generic description of manned guarding (as per option 4). Ensuring that this description is correctly interpreted and mapped to individual job descriptions will be facilitated by clear guidance, effective risk assessment, and joint working with the SIA.

45. The consultation exercise did not reveal strong support for a specific sports and events licence (option 5), with the majority of respondents considering that it would not address the current concerns, would add to the complexity and burden of the current licensing regime, and could potentially constrain security operatives in their work opportunities. Where there was support, this was because respondents felt it would enable the licensing regime to be tailored more appropriately to the sector, and enable the development of specific training and qualifications that could in turn drive up standards. However, others thought that the sports and events sector itself is too diverse to be able to tailor it in this way. We agree too that a key driver of licensing is to provide consistently high quality security, and that the basic principles of good security hold true wherever it is being provided. We consider that, rather than developing a new licensing regime, it is more important to ensure that SIA-required training and qualifications are applicable across all sectors, with event or premises-specific elements available to supplement this where appropriate.

46. Consultation with stakeholders and with the DCMS has led us to believe that, on balance, the evidence supports a provision to remove specific individuals from the remit of the Act in circumstances where they work in premises where two key criteria can be fulfilled:

a) Risk factor

*'The premises, and the events held in them, can be evidenced as being inherently low risk to the public **in terms of the types of activity which the imposition of additional controls was designed to prevent.***

b) Other legislation

'The premises, and the events or entertainment held in them, are already regulated through other legislation.'

47. It is our view that premises covered by the Safety of Sports Grounds Act 1975 or the Fire Safety and Safety of Places of Sport Act 1987 meet these criteria. Such premises must possess, and adhere to the conditions of, a safety certificate (Appendix C). While a safety certificate provides an

integrated system for managing public safety at a sports ground, in order to do this, it must be explicit about how security and public protection will be addressed. So, for example, there should be a written statement of intent that agrees the delineation of responsibility between the police and the certificate holder for spectator safety and maintaining public order. The core section of the certificate also lays upon the certificate holder the general requirement to provide the necessary equipment, supervisory staff and stewards for monitoring, directing, controlling and assisting spectators.

48. In respect of criterion (a), it is argued that the overall risk for events held at such premises is inherently low *in respect of activity that additional controls* (i.e. the licensing of in-house security staff) *were designed to prevent*. This is due to a combination of factors including:

- There is no evidence of a problem with criminality among in-house security staff, and no evidence of any public concern about the standards of security staffing or stewarding at such sports events;
- Events security staff are, where a police risk assessment deems it necessary, supported by a police presence to mitigate against specific risks (this is under continuous review by police and events organisers);
- Development of bespoke training programmes for sports security staff (for example, all stewards are trained to NVQ level 2 in the case of football, and race courses are working with Telford college to train their safety stewards to NVQ level 2 in spectator control, with a race day NVQ assessment); and
- Each ground has an identified safety officer who undertakes a full risk assessment for each event, shared with the emergency services.

49. In respect of criterion (b), these premises are, as stated above, already subject to Safety of Sports Grounds Act 1975 or the Fire Safety and Safety of Places of Sport Act 1987 legislation. We are of the opinion that SIA licensing would not bring any significant added value to spectator safety and security over and above that already provided by the safety certificate. This is primarily because all the agencies responsible for safety and security (including the local authority, police, fire and ambulance services) have a key role in setting the conditions within each safety certificate. These agencies meet regularly as a unified, coherent Safety Advisory Group (SAG), chaired by the local authority to ensure clear lines of responsibility⁴. The local authority has the power to take all action necessary to secure public safety at venues with a safety certificate, including considering security issues where these have a potential to impact on spectator safety. The type of conditions applied in certificates can range from setting requirements on steward training, directing the deployment of stewards, and restricting crowd capacities.

⁴ This was a key outcome of the review of the Hillsborough disaster

3.6.2 Implementation of recommendation

3.6.2.1 The amendment

50. We therefore propose an amendment to the PSIA that removes in-house staff carrying out licensable conduct involving manned guarding activities (as defined in Schedule 2, Paragraph 2) in premises covered by the Safety of Sports Grounds Act 1975 or the Fire Safety and Safety of Places of Sport Act 1987 from the remit of the Act where those activities are carried out for purposes for which the safety certificate has effect.

51. Such an amendment would remove the following staff from the licensing requirement of the Act:

- In-house staff undertaking manned guarding activities at any event held at a sports ground holding a safety certificate for purposes for which the safety certificate has effect;
- In-house supervisors of such staff;
- In-house supervisors of contract staff undertaking those activities for those purposes;
- Venue managers and directors;
- In-house staff from such premises who accompany their home team to a match at another sports ground that is also covered by a safety certificate and who carry out manned guarding activities for purposes for which the safety certificate of the host ground has effect.

52. It **would not** cover:

- Security staff supplied under contract by another organisation;
- In-house staff from such premises working at another sports ground that is not covered by a safety certificate;
- In-house staff from such premises working at another sports ground that is covered by a safety certificate, but who are not accompanying their team.

53. The amendment would be achieved by amending section 4 of the PSIA and would also cover football, as it has been decided that the same evidence that applies to other sports also covers football. Ministers announced last year their intention to grant football an exemption, through which football authorities were required to demonstrate 'equivalence' to SIA processes. The two key gaps that were identified in the original assessment of 'equivalence' were training in conflict management and criminal records checks. The football authorities have recently expanded their training package, which now offers an equivalent standard for all practical purposes to what is required by the SIA. The football authorities have undertaken voluntarily to work to these standards (carrying out CRB checks on any staff who would otherwise have been SIA licensable) under the amendment to section 4 of the PSIA. This will

make the system much more straightforward without losing any of the safeguards that would have been required under the exemption regulations (e.g. ensuring people with unacceptable criminal records are not employed to undertake security duties). A further Statutory Instrument is to be made that will amend the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allowing the Football Association (FA), Premier League and Football League to request CRB checks for this purpose.

3.6.2.2 *The framework*

54. In addition to the amendment, we will publish a framework that sets out the Secretary of State's powers to remove activities from the scope of the Act. Applications will be considered under:

- Paragraph 1(2) of Schedule 2 to remove activities from the scope of the Act;
- Paragraph 7(2) of Schedule 2 to remove activities from the list of activities subject to 'additional controls'; and
- Paragraph 8(3)(d) of Schedule 2 to remove manned guarding activities undertaken on licensed premises on prescribed occasions from the list of activities which are subject to additional controls as door supervisor activities under the Act.

55. The exclusions framework will set out how organisations affected by the PSIA but not covered by the amendment can apply for a removal, and the evidence they will need to provide in support of this.

3.6.2.3 *'No change' for all other staff*

56. Any other staff performing manned guarding activities that remain licensable **must ensure that they are SIA-licensed** and fully compliant with the law. This includes **all** staff undertaking manned guarding activities **under contract**. Non-compliance may result in prosecutions being brought by the SIA or local police (see section 8).

3.6.2.4 *Guidance*

57. Clear and specific guidance for the sports and events sector needs to be able to help people identify the licensing requirements for particular premises or specific events.

58. The July 2006 SIA guidance document *Security at Events*⁵ provides advice to event organisers and security managers to ensure all security personnel covered by the legislation are correctly licensed, along with a flowchart to help assess licensing requirements. Inevitably, there is still a degree of subjectivity involved, namely in mapping an individual's role to the designated tasks to see if they meet the definition of security guarding. The SIA is happy to work with premises managers, events organisers and security providers to ensure that their interpretation is correct and within the law, and

⁵http://www.the-sia.org.uk/home/about_sia/publications/publications_ds.htm

to look at alternative ways of deploying staff to ensure most efficient and effective use of resources.

59. The SIA outlines some key factors that determine these licensing requirements, including:

- The security requirement according to the level of risk associated to any venue or event;
- The employment status of an individual;
- The type of work (activity) undertaken by that individual; and
- Whether those premises are open to members of the public.

60. The SIA guidance will be updated in light of the outcomes of this RIA.

61. In the partial RIA, we set out some examples of both licensable and non-licensable activities. We wish to make it clear that it is *individuals* undertaking certain activities who are licensed, not generic job titles (e.g. 'stewards', 'searchers') which may encompass different activities or different levels of risk at different premises or events.

62. To clarify, the following types of people **are not** included in the scope of the licensing regime:

- **Volunteers** do not (generally) perform their activities under contract or employment. Where a donation or other benefit is made to a charitable group, club or society providing the volunteers, this does not constitute contracted employment. The principles on what constitutes payment in kind or reward are in line with those set out by HM Revenue and Customs (HMRC).⁶ Currently, volunteers make up a significant proportion of events stewarding, and the Government wants to encourage this kind of activity.
- **People who do not wholly or mainly perform licensable activities but who incidentally respond to a sudden or unexpected occurrence.**
- **People who do not perform those activities other than incidentally to maintain order or discipline amongst a group they are working with** (e.g. teachers supervising children at an event).
- **People who only control access to premises to the extent of ensuring that persons have paid for admission or have invitations or passes to enter** (e.g. ticket sellers or checkers).

⁶ In short, HMRC identifies a payment in kind or reward as whether it is liable to either PAYE (Tax) or National Insurance Contributions.

63. The SIA guidance provides a non-exhaustive list of activities that, **if performed in isolation**, are unlikely to make an individual licensable; for example:

- Customer care duties including directing patrons to refreshments, toilet and first aid facilities;
- Directing spectators to seating areas by checking tickets;
- Providing safety advice and assistance to patrons as required;
- Monitoring the crowd in accordance with health & safety for signs of distress caused by overcrowding and taking action in accordance with standing instructions;
- Ensuring gangways and exit/evacuation routes are kept clear for health & safety purposes;
- Providing assistance in the carrying out of evacuation procedures in the event of danger to patrons, including liaising with representatives of the emergency services;
- To be responsible for the health & safety and comfort of spectators within a designated area;
- Monitoring and maintaining the pedestrian flow at key locations e.g. entry and exit points;
- Providing guidance and direction to visitors arriving by car or on foot, including the management of roadway crossings to ensure the safe passage of visitors over the roads; and
- Report to a supervisor or safety officer any damage or defect which is likely to pose a threat to spectator “health & safety” e.g. a damaged seat or barrier.

64. Further clarification on specific issues raised in the consultation is provided in the summary of consultation responses published alongside this RIA.

3.7 Impact of recommendations on compliance

65. The recommended way forward should result in improved compliance with the Act, as there should be better understanding of the requirements of the Act, enabling correct licensing and better deployment of licensed staff.

66. There are clear incentives for those within the private security industry to work **with** the SIA rather than against it. Evidence from events organisers suggests that receiving SIA advice on, and endorsement of, a proposed approach to licensing is beneficial and ensures confidence in decision-making on both sides. This is likely to strengthen relationships between the regulators and the regulated and improve compliance.

3.8 Unintended consequences

67. In considering the implications of exemptions and exclusions, it became apparent that Section 21 of the Licensing Act 2003 dictated that, **under certain conditions**, all security staff working on licensed premises are required to be licensed by the SIA even if the PSIA does not require them to be so.

68. The Act said that *'where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.'* As the definition of 'security activity' is with reference to Paragraph 2(1)(a) of Schedule 2 to the PSIA⁷ this actually meant that, when the wording of a premises licence requires security staff to be present at an event, they must be SIA licensed, even if (for example) they are volunteers or those working under a licence dispensation notice (defined under section 4(4) of the PSIA). It also meant that even with an exemption or exclusion in place, some in-house security staff would still need to be licensed.

69. In order to mitigate this unintended consequence, an amendment has been made to Section 21 of the Licensing Act 2003 to define security activity as licensable conduct within the meaning of section 3(2) of the PSIA in respect of the activities in paragraph 2(1)(a) of Schedule 2. However, this amendment will not automatically change affected premises' licences – in these cases licence holders will need to apply to have their licence amended or removed. The cost of this would vary depending on the premises' rateable value. The fee, payable to the licensing authority, would vary between £100 and £635. The application would also have to be advertised in a local newspaper which would cost between £200 and £400.

⁷ i.e. those undertaking manned guarding activity

4 Costs and benefits of recommendation

70. This section provides a more detailed cost / benefit evaluation of the recommended way forward, and comprises three parts:

- Sectors and groups affected;
- Analysis of costs and benefits;
- Summary of costs and benefits.

4.1 Sectors and groups affected

71. Below, we set out those sectors and groups most likely to be affected by the proposals within this document, and any associated and available data.

4.1.1 Sports and events sector

72. This RIA is concerned with the sports and events sector. Participation in sports or cultural activities is an essential part of the fabric of our society. It contributes to the quality of life, developing sustainable communities and many government programmes – improving health and fitness, increasing activities for young people, community engagement and volunteering and tourism. It is also a major employer. This country is used to hosting major events – such as Wimbledon, the Commonwealth Games and large pop concerts – and plans are well under way for the Olympics to be held in London in 2012. At the other end of the scale are many local festivals involving much smaller numbers of both staff and attendees. Some of these festivals have been taking place for decades and are a part of traditional community life.

73. However, such events are not without their problems, and security measures have to be in place for good reason – for example, to prevent violence, racism, drunken behaviour, or even just to control good-natured high spirits. The changing world means that there is greater threat from – and concern over – terrorism than at any other time in history. There is, quite rightly, the demand for better protection of children and vulnerable groups, particularly given the growing diversity of attendance at sporting and other events. A key intention behind the PSIA was to ensure that the people with the responsibility for performing such an important role were appropriately skilled and suitable for the job.

74. In considering how the regulation provisions of the 2001 Act apply to the sector, we have taken the variety and scope of the sector into account. It is particularly diverse compared with some other sectors, and includes:

- High profile international sports and other events in purpose-built stadia and buildings;
- Road races;
- Festivals and carnivals on otherwise empty land, roads or parks or in multiple venues;

- Horticultural shows;
- Concerts at established venues, in parks or green spaces;
- Activities at international, national, regional or local level.

75. These different events raise different organisational issues and pose risks at different levels – from events that are almost always low risk to ones that can be expected to be high profile targets or likely to attract crime. Security can be provided by any combination of armed services, police and the private security industry, depending on the level of risk, the culture and background of the sport or activity and the circumstances at the time. Volunteers and people from local communities undertaking casual employment also have an important, and in some cases essential, role to play in organising and acting as stewards at sports and events.

76. Data is limited in this area. However:

- There are in the region of 178 sports grounds in possession of a safety certificate under the Safety of Sports Grounds Act 1975 (plus a small number with safety certificates under the Fire Safety and Safety of Places of Sport Act 1987);
- The 2005 RIA on the PSIA and football stewards estimates that around 20-25% of in-house football stewards fall within the remit of the additional controls of the Act (approximately 3000 in all);
- Since then, a FLA survey of Premiership and Football League clubs has identified some 4,500 in-house staff who it was envisaged would need licensing under the PSIA, not including Wembley Stadium or other sports' grounds.

4.1.2 Security providers

4.1.2.1 In-house

77. It is not known exactly how many in-house staff who would require licensing under the PSIA work uniquely or primarily in the sports and events sector, therefore numbers can only be an estimate based on the survey data above. The following assumptions have been made for the purpose of this RIA:

- There are between 5,500 and 7000 in-house security staff potentially removed from the remit of the Act by the recommendations in this RIA;
- Of these staff, some may already be SIA-licensed.

4.1.2.2 Contract

78. As contracted staff are not directly impacted by the recommendations and are still required to be licensed, this RIA does not identify any quantifiable costs or benefits for security firms. However, what is known about security firms provides an insight into the nature of the industry and those who work within it.

79. It is not known exactly how many contract security operatives work either uniquely or occasionally in the sports and events sector. The BSIA reports that it has the following number of members (security providers who are responsible for around 70% of UK security business) providing specific manned security services:

- Concert stewarding – 83 members;
- Door supervisors / stewards – 13 members;
- Event stewarding – 6 members;
- Exhibition and event security – 124 members; and
- Special events – 31 members.

4.1.3 Training and qualification providers

80. There are three SIA-endorsed awarding bodies that offer the security guarding qualification required for licensing, and one more in addition that offers the door supervisor qualification. There are in excess of 600 training providers endorsed by these awarding bodies. As the number of potential licensees removed from the scope of the Act by the recommendations is a small percentage of the total pool of potential licensees, we do not believe that there will be significant financial consequences for training and qualification providers.

4.2 Analysis of costs and benefits

81. It is important to note that this section only presents the costs and benefits that would be **additionally caused by the implementation of the way forward recommended in this RIA**. Other costs and benefits of the legislation more generally have been explored in previous RIAs.

4.2.1 Baseline costs of legislation ('as is')

82. To assess the costs and benefits of the recommendations in this RIA, it is necessary to calculate a baseline cost of the legislation as it would have impacted without the recommendations. This baseline cost will be the cost that would have been incurred by the bodies now removed from the remit of the Act by the amendment – i.e. for the licensing of in-house security staff in premises covered by a safety certificate – had no exemption or amendment been put in place.

83. In calculating a baseline cost, we have made the following assumptions:

- Training costs generated by licensing requirements are one-off;
- The licence and training fees increase by no more than inflation;
- The 'stock' of in-house security staff affected remains constant.

84. Costs are broken down into two main types:

- Policy costs – the essential costs of meeting the policy (e.g. licence fees etc); and
- Administrative costs – the costs of the administrative activities that are required to comply with government regulation (e.g. familiarisation, demonstrating compliance etc).

85. Costs are projected over 10 years and are presented as a range. The bottom and top ends of the range assume:

- The lowest / highest number of in-house security staff as estimated above;
- The lower / higher cost of training costs as estimated below;
- A lower / higher rate of turn-over; and
- A smaller / larger number of new staff requiring licensing.

86. It must be stressed that as these baseline costs are necessarily based on a number of estimates and assumptions, they are therefore **highly indicative**.

4.2.1.1 Policy costs

87. A licence costs £190 and is valid for three years. Three yearly renewal costs are also currently £190. This cost may be incurred by the individual or by the employer.

88. For the purposes of costing the baseline (i.e. what it would cost if existing provisions of the PSIA remained in place), all security staff would be required to undergo the SIA-approved training in order to become licensed. The SIA estimates that the required training would cost £250 to £350 per individual. Funding support of £102 per individual has been agreed with the Learning Skills Council (LSC) to offset the training fees, thereby reducing the cost to businesses or individuals to around £150 to £250. It is assumed that these are one-off policy costs to meet the SIA's requirements for licensing (albeit that employers may choose to provide refresher training).

4.2.1.2 Administrative costs

89. Without any change to the existing legislation, the main administrative costs to the security operatives in the sports and events sector are potentially generated by:

- Providing documentation; and
- Applying for and renewing licences.

90. The table below sets out per person indicative costs for these administrative activities, using the figures calculated for the Government's recent administrative burden of regulation exercise (and using the Standard Cost Model (SCM) approach).

A	B	C	D
Activity	Estimation of time taken (hrs p/a)	Hourly rate (inc. 30% overheads)	Unit cost (B*C)
Providing documentation or other information to regulators if required	0.9	£28.93	£26.04
Applying for / renewing licences	0.5 (1.5 hours every 3 years)	£20.52	£10.26
Total admin cost per person per annum			£36.30

4.2.1.3 Indicative baseline

91. The table below sets out an indicative baseline, incorporating both policy and administrative costs. Due to the variable factors outlined above, this baseline is presented as a range.

VARIABLE FACTOR	BASELINE ('AS IS')	
	Low	High
Population affected	5,500	7,000
Annual turnover (i.e. proportion of workforce leaving each year)	0.1	0.3
Proportion of new staff requiring licensing ⁸	0.2	0.8
Licence fee	£190	£190
Training costs	£250	£350
Admin costs per annum	£36	£36
Discount rate	3.5%	3.5%
10 year net present value (NPV)	£4,793,021	£11,492,025

4.2.2 Economic impact

92. The following section is an economic appraisal of the recommendations in this RIA, setting out indicative costs and savings against the baseline estimated above. For those premises covered by a safety certificate, the main quantifiable benefit will be saving on training and licensing costs. Although other costs will be incurred by the requirements of the safety certificate (e.g.

⁸ Note: this variable assumes a larger or smaller proportion of new staff taking up jobs in sports and events security are already licensed (i.e. are moving within the security industry, but changing sectors).

training, CRB checks, Safety Advisory Group meetings), these are existing costs that such premises already faced, not costs imposed by the PSIA. They do not, therefore, feature in this costing.

93. As with the baseline calculations, the variable factors mean that the economic impact is shown as a range, and must look at both policy and administrative costs. A further variable is the number of in-house security staff covered by the amendment who have already complied with the law and become licensed. As the expense of training and licensing has already been incurred, the upfront cost savings cannot be made for this group of people. However, the subsequent savings on renewals will still be accrued.

4.2.2.1 Policy costs

94. The potential policy costs are the same as those set out in section 4.2.1.1 above. However, for those premises affected by the amendment, these policy costs will no longer apply.

4.2.2.2 Administrative costs

95. In respect of the recommended way forward, the main administrative cost to those affected by the amendment will be generated by the time required for familiarisation with the amended legislation and the implications of this. However, unlike the administrative costs set out above, this is likely to be a one-off, not recurring cost.

96. The table below sets out estimated cost of this administrative activity, based on the same SCM approach as above.

A	B	C	D
Activity	Estimation of time taken (hrs)	Hourly rate (inc. 30% overheads)	Unit cost (B*C)
Familiarisation with requirements of legislation	1.0	£20.52	£20.52
Total admin cost per person (one-off)			£20.52

4.2.2.3 Indicative costs / savings of recommendation

97. As no policy costs would apply under the recommendation, the only variable factor is the population affected by the amendment. **The only cost incurred by the amendment is the familiarisation administrative cost outlined above, and this is a one-off cost.** The same high and low estimates as above are used in the table below.

VARIABLE FACTOR	COSTS UNDER AMENDMENT	
	Low	High
Population affected	5,500	7,000
Population affected	5,500	7,000
Admin costs (one-off)	£21	£21
Discount rate	3.5%	3.5%
10 year net present value (NPV)	£109,043	£138,783

98. Based on these figures, the indicative savings that could be made by implementation of the recommendation range as follows:

Estimate	Baseline	Amendment	Savings (10 year NPV)
High estimate	£11,492,025	£138,783	£11,353,242
Low estimate	£4,793,021	£109,043	£4,683,977

99. These savings will be shared between businesses, individuals (where the costs of training and licensing have not been reimbursed), and the LSC (which subsidises training). Detailed costings can be found at Appendix D.

4.2.3 Social impact

100. If fewer sports and events security staff are licensed, there could be a risk that standards fall and criminality increases in this sector, creating a social cost through actual crime and fear of crime. However, we believe the risk of this social cost is mitigated by the criteria dictating the rationale for removal from the Act, namely a low inherent risk, regulation through other legislation, and joint risk assessment with police and local authorities.

101. Additionally, the provision of clear guidance should lead to a better understanding of the Act, its provisions, and its implications across the sports and events sector. This should result in better job specifications, risk assessments and deployment of staff, which in turn should lead to improved professional standards, a safer and more co-ordinated workforce, and greater public protection. The recommendations should also improve relationships between the sports sector, the regulator and enforcement agencies.

4.2.4 Environmental impact

102. We do not consider the recommendations in this RIA to have any significant environmental impact.

4.3 Summary of costs and benefits

103. The table below summarises the potential costs and benefits of the recommendations in this proposal, namely exemption, exclusion and guidance.

Benefit	Monetary value p/a	Benefit achieved by
Savings from reduced licensing costs for in-house staff (policy/admin costs)	£4.7m - £11.4m	Businesses; individuals; LSC
Improved relationship between sports and events sector and regulatory sector	Not cash-releasing	Sports sector; regulatory sector
Better understanding of Act; improved deployment of staff; better public protection; improved public confidence	Not cash-releasing	Security industry sector; sports sector; public

4.3.1.1 Better Regulation

104. The following table summarises how the recommendations in this RIA are likely to comply with the five principles of better regulation.

Principle	How recommendations support principles
Proportionality	Removal of certain roles from regulatory regime based on risk assessment and value added. Reduces the burden of licensing and inspection for those organisations already complying with the Safety of Sports Grounds Act 1975.
Accountability	Recommendations based on consultation and following negotiation with key stakeholders. RIA sets out summary of consultation and links to policy decisions. Implications of recommendations set out in RIA and put in public domain.
Consistency	Removal from remit of Act under the amendment or the exclusion framework will apply to all in sector who can meet criteria. Better understanding of the Act (through guidance) will help to ensure greater consistency in the way it is applied and regulated.
Transparency	Revised guidance will help to clarify and communicate policy objectives and licensing requirements. Amendment will be announced publicly and implications communicated widely. Exclusions framework sets out clear acceptance rationale and criteria.
Targeting	Consultation and recommendations focused on acknowledged concerns and confusion of sports and events sector. Minimal unintended consequences.

5 Equity, fairness and race equality

105. Public authorities in Britain have a legal duty to promote race equality. This means that they must have due regard to how they will:

- Eliminate unlawful racial discrimination;
- Promote equal opportunities;
- Promote good relations between people from different racial groups.

106. Black and minority groups have a direct interest in the application of the licensing scheme in the PSIA to security staff at sports and other events, including ensuring that:

- They have equal access to the training and licensing scheme to enable them to become licensed security guards if they meet the requirements;
- They are not disadvantaged by the criteria for licensing;
- They are able to arrange and participate in events that reflect their own culture.

107. Some consultees raised queries about whether black and minority groups are disproportionately represented in the private security industry (compared to the general population), and could therefore be disproportionately disadvantaged by the licensing requirements.

108. However, the proposals in this RIA are seeking to simplify and clarify licensing requirements, and will not increase the requirement for security operatives to become licensed. The amendment will actually *reduce* the need for in-house security operatives to be licensed, and better clarity and common understanding of the Act will improve the ability of contractor firms to provide the most appropriate staff to events. The consequent increase in standards will mean that the best firms and contract staff will benefit, regardless of ethnic origin. (It is important to note that, in spite of this reduced licensing requirement, there may still be an increase in the number of licensed staff, as some who should be licensed currently are not.)

109. In summary therefore, we do not believe that the proposed way forward discriminates between any particular groups, whether by geographical region, age, race, religion, or gender.

110. However, consultation with Attitude is Everything, which improves disabled people's access to live music, has raised the issue of equal opportunities recruitment practices in the events sector. The charity has run a pilot project at Glastonbury, employing disabled stewards to run the disabled campsite facilities and viewing platforms at the festival. The success at this pilot led to it being repeated at Reading, Leeds and other festivals, and the charity is currently working with other major events organisers. Attitude is Everything considers that there are two key issues in respect of disability: (1)

ensuring that the level of disability equality training for security and stewarding staff is appropriate; and (2) encouraging equal opportunities recruitment practices in the sector.

111. While these issues are not, per se, amplified or diminished by the proposals in this RIA, they are important considerations for the modernisation and professionalisation of the security and sports / events industries. The SIA reports that all SIA-endorsed training includes equality awareness and the SIA requires its partner organisations to both comply, and demonstrate compliance, with equalities legislation. Premises removed from the SIA licensing regime by the amendment must seek to ensure that their own training and employment practices are equally compliant.

6 Small Firms Impact Test

112. The Small Business Service was sent a copy of all PSIA-related RIAs and the partial RIA in March. It supported the move to clarify the situation for the sports and events sector, but did not envisage that the proposals outlined in the document would have an adverse effect on small businesses.

113. There is no Standard Industrial Classification (SIC) for this area of the labour market, nor any categorisation from Companies House for any limited companies, making it very difficult to assess exactly how many businesses there are of different sizes within the private security industry.

114. It is known that the majority of security companies have fewer than 50 employees, and there are also a significant number of self-employed individuals. All businesses having fewer than 250 full time equivalent (FTE) employees are regarded as being small businesses. The size of a business's financial turnover does not affect its status as a small business.

115. As this RIA is mostly concerned with clarifying and simplifying existing legislation, the proposals contained within do not obviously have negative implications for small businesses. Under the existing legislation, security firms are required to ensure any staff they contract out for security guarding work are licensed, and this is equally true of small and large businesses alike. The recommendations in the RIA will have no impact on this requirement; as they do not change the definition of 'security guarding' activity, they will not impact on the number of staff contract firms must license. It may be true that larger security firms are more likely to have the 'critical mass' that would be required for major events; however, this is not a consequence of either the licensing regime or the proposals in this RIA.

116. From the demand side, clarifying exactly which kinds of activities undertaken by contract staff within the sports and events sector are licensable should enable any small-scale event to limit the costs of applying the licensing provisions, but at the same time ensure that proper standards of security are applied in line with the risk assessment. From the supplier side, this clarification will help to ensure security firms provide appropriately licensed staff at a consistent and market-tested fee, without 'pricing out' smaller firms.

7 Competition assessment

117. The competition filter test was applied to the preferred options. In ensuring fair competition, it is important to examine whether recommendations proposed in this RIA will have a disproportionate financial impact on firms for any reason such as size, specialisation, diversity etc. As this RIA is looking at proposals to simplify and clarify existing regulation (rather than to introduce additional regulation), most of the market stands to benefit, and the test does not reveal any obvious reason why the proposals would affect market share or entry to the market.

118. The market affected by the proposed way forward (and as detailed in section 4 above) comprises:

- Security providers;
- Sports and events organisers;
- Sports grounds and events venues; and
- Training / qualification providers.

119. There are over 150,000 people now holding door supervisor or security licences, either in-house employees or contractors. It is understood that 80% of the industry is covered by 60 companies⁹. Manned guarding can incorporate several different services (e.g. security, cash and valuables in transit, keyholding). While some firms provide only some of these services, other companies will operate across a number of areas. We have also been informed that companies do not normally switch labour between different services (e.g. individuals who are normally retail guards are not switched to guarding cash in transit). These different services may therefore constitute separate economic markets. If we look at the industry as a whole, there is no single company commanding a controlling share, although the 20 largest manned guarding companies were estimated by the BSIA in 2002 to control just over 61%.

120. The market structure of the industry is well established, and regulation was introduced to 'transform' the industry through raising professional standards and improving public protection, not by trying to alter the fundamental structure of the marketplace. Likewise, the recommendations in this RIA are aimed at improving understanding and stripping out duplication, and are unlikely to impact on the way that private security is provided and delivered.

121. There is the possibility that, if sports grounds are excluded from the additional controls, they will find it more cost-effective to employ in-house security staff than to hire licensed contract staff. However, this is unlikely to happen because: (1) many events do not happen frequently enough to

⁹ Source: Kittcatt Nohr Alexander Shaw

support the employment of many in-house staff, so will always require contract staff to supplement the security function; (2) under the exclusions framework, premises will still need to demonstrate effective selection, training and monitoring of in-house staff, so this will not represent an 'on the cheap' option; and (3) experience has shown (with the Approved Contractor Scheme) that a similar prediction did not materialise and that the better suppliers are actually enjoying substantial growth.

8 Enforcement, sanctions and monitoring

122. The legislation creates a number of criminal offences. Most of these offences are summary only, with a maximum penalty of 6 months' imprisonment or a fine of the statutory maximum or both. The offence of offering security services of persons who are not licensed is triable either way with a maximum penalty of five years' imprisonment on indictment or a fine or both.

123. The Security Industry Authority is the main enforcement body for the licensing regime introduced by the PSIA 2001, supported by local police and other enforcement agencies. The SIA is required to approve and issue licences, set and ensure compliance with the conditions of licences and with the Act, and suspend or revoke licences where necessary. It has a range of enforcement actions at its disposal, including verbal and written warnings, improvement notices, and prosecution.

124. The main enforcement implications of the amendment are that the SIA will no longer be required to ensure in-house licensing compliance for sports grounds covered by a safety certificate. Instead, such grounds will be required to adhere to terms and conditions set within the safety certificate, which will be monitored by Safety Advisory Groups and enforced by the local authority in conjunction with the police. The SIA will continue to have a role in ensuring such grounds are using appropriately licensed contract security staff, liaising with them just as they do with other customers of private security. The SIA uses the National Intelligence Model to inform its compliance and investigation actions – there is no 'routine' inspection.

125. Further removal of individuals from the remit of the Act under the Exclusions Framework will be granted by the Secretary of State, on advice from the Home Office and the SIA.

126. It is intended to monitor the impact of the licensing system on the industry, offending rates and public confidence in conjunction with the police and the industry. The SIA publishes an Annual Report including statistics on the number of licences issued, refused and revoked.

9 Implementation and delivery plan

Delivery objective	Success criteria	Key milestones	Risk management	Responsibility	Communication
In-house staff in premises covered by a safety certificate removed from remit of the Act	Amendment successfully passed; stakeholders understand implications of amendment	Report Stage for Violent Crime Reduction Bill (October 06); Bill gains Royal Assent (November 06)	Ensure amendment is 'right first time' and has buy-in from key stakeholders	Home Office policy team	HO and SIA websites, national and trade media, umbrella organisations, sports bodies and stakeholder forums, local authorities
Other premises meeting criteria can apply for exclusion from the Act for in-house security staff	Publication of Exclusions Framework; stakeholders aware of framework	Publication alongside announcement of ministerial decision and publication of RIA	Test framework with stakeholders to ensure wording is clear and unambiguous	Home Office policy team, SIA	
Security staff, providers and employers understand the provisions of the Act and interpret them correctly	Updated guidance circulated and available on internet; stakeholders aware of guidance	Updated SIA guidance alongside ministerial decision and publication of RIA and Exclusions Framework	Liaison between SIA and Home Office to ensure guidance reflects RIA and specific concerns raised in consultation	Home Office policy team, SIA	

10 Post-implementation review

127. The Home Office and the SIA are jointly responsible for the successful implementation of all the provisions of the PSIA 2001. There is a Government commitment to review all major pieces of legislation three years after full implementation.

128. A post-implementation review of the PSIA would be appropriate once all provisions of the Act have been implemented, which is not yet the case. However, given the rolling nature of the implementation, the Home Office is constantly monitoring the PSIA, and it is an SIA statutory duty to keep the operation of the PSIA under review.

11 Summary and recommendation

We believe that what is needed is a transparent and robust way to additionally remove specific individuals from the scope of the licensing regime, thereby reducing the burden of the legislation and avoiding duplication but without any consequent reduction in quality or increase in risk. Our recommendation is therefore multipartite:

- Amendment of the PSIA (by using the Violent Crime Reduction Bill) to remove in-house security staff in premises with safety certificates from the licensing requirement of the Act when they undertake activities for purposes for which that safety certificate has effect;
- Publication of an exclusions framework within which other sectors can apply for exclusion of in-house security staff;
- Option 1 ('no change') for all other premises / staff; and
- The production and circulation of clear and joined-up guidance.

Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Exclusion from PSIA via amendment	£4.7m to £11.4m over 10 years (NPV)	Nil

12 Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed...Vernon Coaker

Date...14th November 2006

Minister's name, title, department:

Vernon Coaker, Parliamentary Under- Secretary of State, Home Office

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Appendix A – Consultation respondents

Non-sporting events
Association of Show and Agricultural Organisations
Consultant – health, safety and welfare at events
Haverhill Town Council
Mean Fiddler
National Eisteddford of Wales
National Exhibition Centre (NEC)
Royal Horticultural Society
Royal International Air Tattoo
Sporting events
Henley Royal Regatta
London Marathon
Sporting representative bodies
All England Lawn Tennis and Croquet Club (AELTC)
Central Council of Physical Recreation (CCPR)
Football Association / League / Premier League
Football Safety Officers' Association
Major spectator sports representative lobby
Motor Sports Association
Racecourse Association Ltd (RCA)
Rugby League Ground Safety Officers' Association
Rugby Union Safety Association
UK Sport
Security industry / regulators
British Security Industry Association (BSIA)
Security Industry Authority (SIA)
Security training providers / skills bodies
Security Training Adviser
Skills for Security
Security contractor firms
Constant Security Services
Group 4 Securicor
Reliance Security

Police
Association of Chief Police Officers (ACPO)
ACPO Terrorism and Allied Matter Sub-Committee
Other
Better Regulation Commission

Appendix B – Consultation summary (executive summary)

129. Generally speaking, the consultation responses fell into two main groups – those from the security industry (e.g. regulators, providers and trainers), and those from the sports and events sector (e.g. specific premises, events organisers, representative bodies). The former group were, in the main, in favour of the law as it stands and cautious of any move to modify or reduce the coverage of the licensing regime as dictated by law. The latter group were more diverse, ranging from those who completely opposed the licensing regime (as they interpreted it as applying to them), through those who were still unsure about the application and implications of the PSIA, to those who were broadly supportive.

130. For example, some events organisers or representative bodies reported working successfully with the SIA to ensure appropriate implementation of the Act and, subject to no further inclusions to the scope of the Act, were confident that they could continue to do so. However, others had very real concerns that the legal requirements of the PSIA – as they understood them – would prove very burdensome, perhaps even prohibitively so, in terms of maintaining necessary levels of security or even continuing with events altogether.

131. One of the most common themes running through the consultation was that of clarity of definition. Some of the issues raised suggested that, with a better understanding of the Act and greater individual confidence in interpreting and applying it, many of the more significant concerns could be allayed. For example, a number of respondents were unsure whether they would have to ensure that ‘stewards’ who they saw operating in a safety, not security, capacity were licensed, when in fact such activity **may not** fall within the remit of the PSIA.

132. It is clear therefore that, moving forward, it is necessary to focus away from job titles and towards specific activities. As was pointed out, the Act is very clear about the definition of licensable manned guarding activity (as per Schedule 2, part 2, paragraph 2(1)). For example, organisers should avoid thinking about whether ‘safety officers’ or ‘bag searchers’ should be, per se, licensable jobs, and instead look at ensuring a robust job description for each individual that will enable an assessment of licensing requirement to be made.

133. Views on the options put forward in the partial RIA were also mixed. Understandably, some found the difference between exemption for licensable activities and exclusion for premises a subtle one, and the terms ‘exemption’ and ‘exclusion’ were often used interchangeably. Those that looked specifically at the exemption framework had issues with the potential bureaucracy created by the introduction of a new regime for granting exemption. Some events or premises thought that they should be ‘exempt’ for reasons outside the test of equivalence required by the exemption framework.

134. Most responses from the sporting sector favoured blanket exclusion for sports grounds covered by safety certificates. Concerns from the events sector tended to focus on whether exclusion was appropriate for premises

which could potentially host a whole range of different events, a view that was echoed by some from the security industry and regulatory side. There was also a view that either exemption or exclusion could create a 'two-tier' system (both across the sector and between in-house and contract staff).

135. Only three responses gave strong support for a specific sports and events licence, with most considering that it would not address the current concerns, would add to the complexity and burden of the current licensing regime, and could potentially constrain security operatives in their work opportunities. It was felt more important that SIA-required training and qualifications are appropriately tailored and standardised for the sector, with event or premises-specific elements where appropriate. Those within the sports and events sector generally considered that they already offered their staff the necessary training and that this training should be built upon.

136. There was no specific challenge to the manned guarding activities as defined in the Act and their applicability to the sector; again, it was the interpretation of this definition that was questioned (and, in some cases, the appropriateness of titles such as 'manned guard' and 'door supervisor' to the types of roles undertaken in sports and events). However, a number of responses from within the sports and events sector highlighted a persisting view that the sector should never have been included within the scope of the Act.

Appendix C – Safety Certificates

Under the provisions of the Safety of Sports Grounds Act 1975, county councils, unitary authorities, metropolitan or London boroughs are responsible for issuing and enforcing safety certificates in respect of any sports ground in their area which has been designated by the Secretary of State. These are sports grounds that, in his opinion, have accommodation for more than 10,000 spectators, or 5,000 in the case of Premiership or Football League grounds in England and Wales. Under the Fire Safety and Safety of Places of Sport Act 1987, this requirement was extended to regulated stands (any covered stand with accommodation for 500 or more spectators, whether seated or standing).

A safety certificate will set the permitted capacity for the sports ground together with the detailed terms and conditions with which the ground management must comply in order to operate the sports ground at its permitted capacity. Staff working under contract should be required as a condition of that contract to comply with the terms of the certificate.

In issuing safety certificates and setting terms and conditions, the local authority must consult with the chief officer of police, the fire authority or the building authority, with a copy of the application form. The normal forum for this consultation is the Safety Advisory Group. On an event-by-event basis, the certificate holder is responsible for spectator safety, and the police have responsibility for maintaining public order. This division of responsibility is usually agreed through a written statement of intent. However, if there is disagreement about the required levels of policing for an event, the local authority can decide to close part or all of a ground or restrict capacity¹⁰.

There are two types of safety certificates, prescribed in Section 1(3) of the Safety of Sports Grounds Act 1975 and Section 26(10) of the Fire Safety and Safety of Places of Sport Act 1987:

A **General Safety Certificate** is issued for a specified activity or number of activities for an indefinite period. It therefore covers any event held regularly at the ground (i.e. sports) and sets terms and conditions for the safety and security measures put in place for such events.

A **Special Safety Certificate** is issued for an occasion or series of occasions so specified. This kind of certificate will be required where a ground wishes to hold an event not specified in the General Safety Certificate – for example, a concert or fireworks display). In this eventuality, the local authority may require different conditions to be attached to the certificate, such as reduced capacity or specialist stewarding.

The majority of grounds covered by safety certificates must be inspected at least annually, and on a reactive basis in response to a serious breach of safety or security.

¹⁰ <http://www.flaweb.org.uk/docs/specsafe/pubs/safecert.php#b8>

Appendix D – Detailed costings

Baseline costs:

LOW ESTIMATE											
Population affected	5,500	<i>Number of in-house security staff affected by amendment</i>									
Turnover	0.1	<i>(0,1) Proportion of staff that are expected to be replaced each year</i>									
Staff new to sector	0.2	<i>(0,1) Proportion of new staff that join that are assumed to require a licence</i>									
Licence fee	£190										
Training costs	£250										
Administration costs (annual)	£36										
Discount rate %	3.5										
Year	0	1	2	3	4	5	6	7	8	9	10
Stock	5500	5500	5500	5500	5500	5500	5500	5500	5500	5500	5500
Flow		550	550	550	550	550	550	550	550	550	550
New licences		110	110	110	110	110	110	110	110	110	110
Renewed licences		1726	1726	1726	1728	1728	1728	1730	1730	1730	1731
Total licence fee revenue		£348,749	£348,749	£348,749	£349,139	£349,139	£349,139	£349,507	£349,507	£349,507	£349,853
Discounted fee revenue (to year 0)		£336,955	£325,561	£314,551	£304,255	£293,966	£284,025	£274,709	£265,420	£256,444	£248,018
Total training cost		£27,500	£27,500	£27,500	£27,500	£27,500	£27,500	£27,500	£27,500	£27,500	£27,500
Discounted training cost (to year 0)		£26,570	£25,672	£24,803	£23,965	£23,154	£22,371	£21,615	£20,884	£20,178	£19,495
Total administration cost		£199,650	£199,650	£199,650	£199,650	£199,650	£199,650	£199,650	£199,650	£199,650	£199,650
Discounted administration cost (yr 0)		£192,899	£186,375	£180,073	£173,983	£168,100	£162,415	£156,923	£151,617	£146,489	£141,536
TOTAL COST (DISCOUNTED)		£556,424	£537,607	£519,427	£502,203	£485,220	£468,812	£453,247	£437,920	£423,111	£409,049
10 YEAR NPV		£4,793,021									
HIGH ESTIMATE											
Population affected	7,000	<i>Number of in-house security staff affected by amendment</i>									
Turnover	0.3	<i>(0,1) Proportion of staff that are expected to be replaced each year</i>									
Staff new to sector	0.8	<i>(0,1) Proportion of new staff that join that are assumed to require a licence</i>									
Licence fee	£190										
Training costs	£350										
Administration costs (annual)	£36										
Discount rate %	3.5										
Year	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Year	0	1	2	3	4	5	6	7	8	9	10
Stock	7000	7000	7000	7000	7000	7000	7000	7000	7000	7000	7000
Flow		2100	2100	2100	2100	2100	2100	2100	2100	2100	2100
New licences		1680	1680	1680	1680	1680	1680	1680	1680	1680	1680
Renewed licences		1024	1024	1024	1187	1187	1187	1259	1259	1259	1290
Total licence fee revenue		£513,813	£513,813	£513,813	£544,751	£544,751	£544,751	£558,333	£558,333	£558,333	£564,295
Discounted fee revenue (to year 0)		£496,437	£479,650	£463,430	£474,719	£458,666	£443,156	£438,845	£424,004	£409,666	£400,039
Total training cost		£588,000	£588,000	£588,000	£588,000	£588,000	£588,000	£588,000	£588,000	£588,000	£588,000
Discounted training cost (to year 0)		£568,116	£548,904	£530,342	£512,408	£495,080	£478,338	£462,163	£446,534	£431,434	£416,844
Total administration cost		£254,100	£254,100	£254,100	£254,100	£254,100	£254,100	£254,100	£254,100	£254,100	£254,100
Discounted administration cost (yr 0)		£245,507	£237,205	£229,184	£221,433	£213,945	£206,711	£199,720	£192,966	£186,441	£180,136
TOTAL COST (DISCOUNTED)		£1,310,061	£1,265,759	£1,222,956	£1,208,561	£1,167,692	£1,128,205	£1,100,728	£1,063,505	£1,027,541	£997,020
10 YEAR NPV		£11,492,025									

Costs of amendment:

LOW ESTIMATE											
Population affected	5,500	Number of in-house security staff affected by amendment									
Turnover	0.1	(0,1) Proportion of staff that are expected to be replaced each year									
Staff new to sector	0.2	(0,1) Proportion of new staff that join that are assumed to require a licence									
Licence fee	£0										
Training costs	£0										
Administration costs ('one off')	£21										
Discount rate %	3.5										
Year	0	1	2	3	4	5	6	7	8	9	10
Stock	5500	5500	5500	5500	5500	5500	5500	5500	5500	5500	5500
Flow		550	550	550	550	550	550	550	550	550	550
New licences		110	110	110	110	110	110	110	110	110	110
Renewed licences		1726	1726	1726	1728	1728	1728	1730	1730	1730	1731
Total licence fee revenue		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Discounted fee revenue (to year 0)		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Total training cost		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Discounted training cost (to year 0)		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Total administration cost		£112,860	£0	£0	£0	£0	£0	£0	£0	£0	£0
Discounted administration cost (yr 0)		£109,043	£0	£0	£0	£0	£0	£0	£0	£0	£0
TOTAL COST (DISCOUNTED)		£109,043	£0	£0	£0	£0	£0	£0	£0	£0	£0
10 YEAR NPV		£109,043									
HIGH ESTIMATE											
Population affected	7,000	Number of in-house security staff affected by amendment									
Turnover	0.3	(0,1) Proportion of staff that are expected to be replaced each year									
Staff new to sector	0.8	(0,1) Proportion of new staff that join that are assumed to require a licence									
Licence fee	£0										
Training costs	£0										
Administration costs ('one off')	£21										
Discount rate %	3.5										
Year	0	1	2	3	4	5	6	7	8	9	10
Stock	7000	7000	7000	7000	7000	7000	7000	7000	7000	7000	5340
Flow		1602	1602	1602	1602	1602	1602	1602	1602	1602	1602
New licences		1282	1282	1282	1282	1282	1282	1282	1282	1282	1282
Renewed licences		781	781	781	906	906	906	960	960	960	984
Total licence fee revenue		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Discounted fee revenue (to year 0)		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Total training cost		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Discounted training cost (to year 0)		£0	£0	£0	£0	£0	£0	£0	£0	£0	£0
Total administration cost		£143,640	£0	£0	£0	£0	£0	£0	£0	£0	£0
Discounted administration cost (yr 0)		£138,783	£0	£0	£0	£0	£0	£0	£0	£0	£0
TOTAL COST (DISCOUNTED)		£138,783	£0	£0	£0	£0	£0	£0	£0	£0	£0
10 YEAR NPV		£138,783									