

EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY ACT 2001 REGULATIONS
(AMENDMENT) REGULATIONS 2011

2011 No. 2917

1. 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The instrument makes provisions in relation to the fee payable to the Security Industry Authority for the grant of individual licences to engage in licensable conduct and the annual Approved Contractor Scheme (registration) fee, payable on approval to cover the operational costs of the scheme. The instrument amends the Regulations made under the Private Security Industry Act 2011 prescribing the fees.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The Private Security Industry Act 2001 (the Act) created the Security Industry Authority (SIA) as the regulator of the private security industry in England and Wales. The Act was extended to cover Scotland in 2007 and Northern Ireland in 2009.
 - 4.2 The Act permits the SIA to prescribe fees. Section 8(7) requires a fee to be paid to the SIA on the making of a licence application. Section 15(8) requires a fee to be paid to the SIA in relation to arrangements under the grant of Approved Contractor Scheme (ACS) approvals.
 - 4.3 This instrument is being made to reduce the licence fee from £245 to £220, and ACS fee from £17 to £15. These fees are prescribed in regulations made under the Act. The SIA will display on its website the reduced required fees.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - **What is being done and why**

7.1 The Act was introduced to regulate the private security industry in the UK. Its objectives are to protect the public by preventing unsuitable people from working in the industry, and to improve standards within it.

7.2 The Act set out that fees must be paid to the SIA as prescribed in legislation.

The individual SIA licence fee is prescribed at £245 in the Private Security Industry Act 2001 (Licences) Regulations 2007/810. The annual ACS registration fee is prescribed at £17 in the Private Security Industry Act 2001 (Approved Contractor Scheme) Regulations 2007/808.

7.3 The HM Treasury publication “Managing Public Money” requires that SIA fees should meet the full costs of the service and neither produce a loss or surplus. The intended effect is to ensure that the private security industry receives the benefit of cost reduction measures at the earliest opportunity to achieve value for money and fairness.

7.4 Following a cost reduction initiative, the SIA has achieved savings in the order of 20% which, unless the fees are reduced, will generate an overall surplus of £5.2m in 2011/12, £3.37m in 12/13 and £3.1m in 13/14. In order to achieve a balanced budget, it will be necessary to reduce both the cost of the individual SIA licence and the annual registration fee for the ACS.

7.5 The licence fee needs to be reduced by £25 (10%) and the annual ACS registration fee (per employee) by £2 (12%) in order to re-align income with the lower level of costs and allow consistency of pricing across years. Individuals and businesses should benefit from reduced costs as soon as possible.

7.6 Amending the regulations so that the fees are reduced is necessary to re-align income with the lower level of costs and allow consistency of pricing across years. The change would see the SIA generate a surplus of £4.2m in 11/12 but break even in 12/13 and 13/14. This will ensure that the SIA will achieve a full cost recovery in line with HM Treasury rules.

7.7 Exploring alternative routes that reduce costs and administrative burdens is consistent with the ‘Better Regulation’ agenda and principally with the Hampton Principle of encouraging economic progress. The SIA has been strongly committed to the principles of good regulation and has been recognised as such by its Hampton Review in 2009. It has also been recognised for its strong performance in reducing administrative burdens in particular to individuals and small businesses (which do not have the economies of scale of larger organisations) through simplifying its application form in 2007. These proposals seek to build on the progress already achieved in this important area.

7.8 The instrument will come into effect on 1 January 2012. This is in breach of the Common Commencement Date. The intended effect is to ensure that the private security industry receives the benefit of cost reduction measures at the earliest opportunity to achieve value for money and fairness, a delay until the April Common Commencement Date would cost the industry an estimated £0.9m.

- **Consolidation**

7.9 No consolidation is planned. The 2011 regulations amend the two sets of 2007 regulations setting out the fees that are being changed.

8. Consultation outcome

8.1 No formal 12 week consultation has been undertaken. This is because these regulations only make a financial change to ensure that the SIA operates on a cost recovery basis. There is therefore no change in policy. We have consulted with Scottish Ministers, the Department of Justice Northern Ireland, and the SIA as required under the Act.

9. Guidance

9.1 The SIA will inform their customers of the changes in their newsletter, update their website, facebook, twitter and all other channels of communication open to them.

9.2 Section 8(7) of the Act provides that on making an application for the grant of a licence, the Applicant shall pay to the Authority such fee as may be prescribed by Regulations. Therefore the application fee is set in relation to the time the application is made rather than when the licence is due for renewal. All applications received before midnight at the beginning of 1st January 2012 will be charged at £245, all applications received after that time will be charged at £220.

9.3 Licence renewal applications can be made up to four months in advance of licence expiration. A licence generally remains in force for a period of three years beginning with the day on which is granted. If an individual applies for a licence in advance of the renewal date, article 4 of the Private Security Industry Act 2001 (Duration of Licence) (No.2) Order 2006 S.I 2006/3411 provides that the individual will receive the full three years plus the time (up to a maximum of three months) they have remaining on their current licence. This provision, along with the extensive publicity planned to inform licence holders of the fee change, provides mitigation for any perceived unfairness in that those that apply for their licences well in advance of their renewal date may be charged a higher fee than those with the same renewal date that apply nearer the renewal date.

9.4 The same arrangements as above will apply to the annual ACS registration fee.

10. Impact

10.1 There is no change to the policy which the SIA enforces. This change solely concerns a reduction in the fees charged for an individual licence and annual ACS membership. There is a positive impact on businesses and individuals due to significantly reduced costs.

10.2 There is no impact on the public sector.

10.3 The attached Impact Assessment has been prepared for this instrument as the fee will save the industry money. The Impact Assessment will be published at the same time as the Explanatory Memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is that the fees apply equally to all those who carry out licensable activity, regardless of the size of business that they work for. Therefore any businesses, regardless of size will benefit from the reduced fees.

11.3 As explained in 8.1, no consultation has been conducted with small businesses. This is because these regulations only make a financial change to ensure that the SIA does not generate a surplus or a loss. There is therefore no change in policy.

12. Monitoring & review

12.1 The success criteria and intended outcome for this instrument is the reduction of fees on applicants.

12.2 The SIA will inform the Home Office if there are any future changes to the fees which may require further regulations. The SIA Board reports annually to the Secretary of State on the operation of the legislation and the performance of the SIA in meeting its aims, and the report will be published on their website.

13. Contact

John Cairncross at the Home Office Tel: 020 7035 0227 or email: john.cairncross@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.