

**EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY ACT 2001 (AMENDMENT) (NORTHERN
IRELAND) ORDER 2009**

2009 No. [DRAFT]

1. 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to make a number of minor amendments to the Private Security Industry Act 2001 (the 2001 Act), which sets up a regulatory regime for the private security industry. The Order is being made as the 2001 Act has recently been extended to Northern Ireland and these minor amendments are needed to ensure the Act takes account of Northern Ireland legislation. The amendments will ensure that the 2001 Act operates in Northern Ireland as it does in the rest of the United Kingdom.

2.2 This instrument will come into force on the day after the day it is made.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The 2001 Act sets out a system for the statutory regulation of the private security industry by a non-Departmental Public Body, the Security Industry Authority (SIA), set up under sections 1 and 2 of and Schedule 1 to the Act. The SIA has responsibility for licensing individuals to work within designated sectors of the private security industry.

4.2 Under the 2001 Act any individual who carries out an activity that has been designated under section 3(3) of the Act is required to hold a licence issued by the SIA. It is an offence under section 3(1) of the 2001 Act to carry out a designated activity without a licence.

4.3 The activities that have been designated to date in England, Wales and Scotland include the guarding of people, property and premises, and the immobilisation of vehicles that are not on public roads (wheel clamping). No activities have been designated in Northern Ireland as the 2001 Act has only recently been extended to Northern Ireland.

4.4 The aim of the Home Office and the Northern Ireland Office (NIO) is that the majority of activities that are currently designated under the 2001 Act in relation to England and Wales, and Scotland, will be designated in Northern Ireland from

December 2009 onwards¹. The effect of the designation will be that these activities can only be carried out legally in Northern Ireland with an SIA Licence. Once this has been done there will be a unified regime for the regulation of the private security industry across the United Kingdom.

4.5 The instrument covered by this memorandum is intended to make amendments to the 2001 Act in advance of December 2009 to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.

4.6 The first amendment relates to an exemption in section 4 of the 2001 Act for those working in certain sports grounds from any requirement to hold a licence under the Act. The exemption does not currently apply in Northern Ireland, as it is defined by reference to the Safety of Sports Grounds Act 1975 and the Fire Safety and Places of Sport Act 1987, neither of which extends to Northern Ireland. The amendment will extend the exemption to Northern Ireland by adding references to the equivalent Northern Ireland legislation, the Safety of Sports Grounds (NI) Order 2006.

4.7 The second amendment relates to Schedule 2 which lists the various activities that can be designated under the 2001 Act (the designation triggers the requirement to hold an SIA Licence). One of the activities listed at paragraph 8 of Schedule 2 is the work of door supervisors or other security personnel in licensed premises. The definition of licensed premises in paragraph 8(2) of the Schedule currently only refers to licensed premises in England and Wales and Scotland. The amendment will add references to licensed premises in Northern Ireland ensuring that door supervisors in Northern Ireland will be subject to the same licensing requirements as apply to door supervisors working in the rest of the United Kingdom (once this particular activity has been designated in relation to Northern Ireland under the 2001 Act).

4.8 Further instruments are planned under the powers to pass secondary legislation provided by the 2001 Act which will make some additional amendments to Schedule 2 to the 2001 Act in order to take account of Northern Ireland legislation and to designate licensable activities in Northern Ireland. Once these have been made the licensing scheme under the 2001 Act will be fully operational in Northern Ireland.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

5.2 This instrument amends legislation that extends to the United Kingdom as a whole, to ensure that the legislation operates uniformly in all parts of the United Kingdom.

6. European Convention on Human Rights

6.1 Paul Goggins the Minister of State for Northern Ireland has made the following statement regarding Human Rights:

¹One important exception to this will be the work of in-house door supervisors, which will not be designated in Northern Ireland until April 2010 although it is currently a designated activity in the rest of the United Kingdom.

In my view the provisions of the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 Northern Ireland Ministers have given a commitment to extend the statutory scheme under the 2001 Act for the licensing of the private security industry by the SIA to Northern Ireland. Current interim arrangements under the Justice and Security (Northern Ireland) Act 2007 require persons offering or providing security guard services for reward to obtain a licence from the Secretary of State. As explained previously this Order is needed to make minor amendments to the 2001 Act to ensure that the licensing regime under the Act operates in Northern Ireland as it does in the rest of the United Kingdom.

- *Consolidation*

7.2 No consolidation is planned.

8. Consultation outcome

8.1 A consultation document entitled 'Regulating the Private Security Industry in Northern Ireland' was circulated to organisations representing the private security industry, political parties, relevant local authority organisations, and a wide variety of other organisations with an interest in or who use private security services in August 2006. This document set out the options for regulation and highlighted the Government's preference, which was to extend the remit of the SIA to Northern Ireland.

8.2 The Government invited responses from organisations and individuals. The consultation paper included and welcomed comments on the results of the Equality Screening of these proposals, in line with the Department's Equality Scheme. The consultation formally closed on 24 October 2006.

8.3 Of the responses received from security companies, all were strongly in favour of the proposals to extend the remit of the SIA to Northern Ireland. This view was shared by the local authorities, the Police Service of Northern Ireland and the British Security Industry Association, the trade association covering all aspects of the professional security industry in the UK.

8.4 No separate public consultation on the proposed draft order has been carried out as it is intended only to make minor amendments to the 2001 Act to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.

8.5 A document containing a draft of this Order has been laid with Parliament for 60 days and referred to the Northern Ireland Assembly, as required by section 85(4) of the Northern Ireland Act 1998. The Secretary of State is obliged under section 85(6) of the Northern Ireland Act 1998 to summarise any representations made by

either House of Parliament or the Northern Ireland Assembly during this period and to provide a copy of any report prepared on the draft by Parliament or the Assembly. A summary of a report produced by an ad hoc committee of the Northern Ireland Assembly during this period is appended to this memorandum, along with a copy of the report itself. No representations were made by either House of Parliament.

9. Guidance

9.1 No guidance will be issued with this instrument. The SIA and the NIO are committed to ensuring that stakeholders have all the guidance and information required to engage with the implementation process through a comprehensive marketing and communications campaign.

10. Impact

10.1 The impact on business, charities or voluntary bodies is firstly that those providing security services in sports grounds in Northern Ireland will be exempt from any requirement to have an SIA Licence. Secondly those working as door supervisors in licensed premises in Northern Ireland will be covered by the licensing regime under the 2001 Act.

10.2 The impact on the public sector would be in cases where public sector bodies provide private security services to external customers under contract.

10.3 The impact assessment “Proposals to Regulate the Private Security Industry in Northern Ireland” was published in November 2006 and is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is that licensing costs are priced per individual. The cost burdens are thus directly related to the size of companies, so there is no undue burden on small firms. In developing the original proposals for SIA regulation the SIA consulted widely both with trade associations and directly with small businesses. The SIA has sought to ensure that communication with the industry is targeted to ensure that small businesses are informed about the forthcoming legislation and licensing process. This has been done through publications, engagement in stakeholder user groups and information events for the industry.

12. Monitoring & review

12.1 The SIA Board will report annually to the Secretary of State on the operation of the legislation and the performance of the Authority in meeting its aims and the report will be published. In addition, the SIA will publish annually its accounts and corporate and business plan.

13. Contact

Gavin Greenlees at the Northern Ireland Office Tel: 028 9052 77688 or email: Gavin.Greenlees@nio.x.gsi.gov.uk can answer any queries regarding the instrument.



Northern
Ireland
Office

PROPOSALS TO REGULATE THE PRIVATE SECURITY INDUSTRY IN NORTHERN IRELAND

FINAL REGULATORY IMPACT ASSESSMENT

NOVEMBER 2006

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1. Purpose and intended effect

1.1 This Regulatory Impact Assessment considers the options available for the permanent regulation of the private security industry in Northern Ireland, sets out the results of the public consultation on 'Regulating the Private Security Industry in Northern Ireland' and discusses the Government's views on the options.

2. Better Regulation Agenda

2.1 A key element of the Government's Better Regulation Agenda is to avoid placing new unnecessary burdens on business, or to remove them where they already exist. It is also intended that, where regulation is justified, any regulatory body involved in the administration of that regulation should adopt a proportionate and risk-based approach to enforcement and compliance.

2.2 The aim of this Regulatory Impact Assessment is to ensure that the right level of protection or control is put in place to achieve the desired outcome with the minimum of Government interference.

3. Objectives

3.1 Ideally, permanent regulation of the private security industry would:

- increase public safety and confidence in the industry;
- promote best practice within the industry and remove those who seek to use their position to pursue criminal activities;
- raise standards of competence and professionalism for security companies;
- improve the reputation of the industry;
- protect and recognise companies and individuals who do operate to high standards and who have invested in training and selective recruitment;
- specify minimum levels of training for security personnel; and
- make the industry an attractive career choice.

3.2 We aim to achieve these benefits of regulation by:

- ensuring a thorough but efficient administrative structure is in place to oversee the process of regulation;
- providing a robust regulatory framework for the future;
- ensuring that the financial burden on the industry is kept to a minimum by choosing a form of regulation which is good value for money; and
- ensuring early awareness and implementation of the new form of regulation.

4. Background

4.1 The private security industry in Northern Ireland is currently regulated under the provisions of Schedule 13 to the Terrorism Act 2000. Part VII of the Act contains the temporary provisions relating to Northern Ireland; these are due to be repealed by 31 July 2007 as part of the security normalisation programme announced last year. Schedule 13 is one of those temporary provisions.

4.2 A firm wishing to provide a “security service” must make application to the Northern Ireland Office for a licence. The Schedule defines “security services” as the services of one or more individuals as security guards (whether or not provided together with other services relating to the protection of property or persons). The grant of the licence is contingent upon the directors, partners or the sole trader satisfying the Secretary of State that a proscribed organisation, or an organisation closely associated with a proscribed organisation, would not benefit from the granting of a licence, whether directly or indirectly, financially or otherwise².

4.3 When an application is made to the NIO, a counter-terrorist check is carried out on the directors, partners or controllers of the firm. No check is carried out on employees. This method initially worked well but has recently proven less satisfactory in preventing the exploitation of the industry.

4.4 The arrangements in Schedule 13 are designed to stop paramilitary organisations exploiting and financially benefiting from the private security industry either directly or indirectly, financially or otherwise. The industry is particularly vulnerable to penetration by paramilitaries because of low barriers of entry to those wishing to provide a private security service. There have been examples in Northern Ireland of private security services being subverted to act as a cover for criminality, for example, the provision of security guards to provide cover for running a ‘protection racket’.

5. Drivers for change

Weakness of the current system

5.1 It has become apparent that Schedule 13 is not working effectively and does not promote best practice. For instance, there are no set criteria relating to vetting for convictions, professional standards or levels of training. This is the reason for such ease of entry into the industry, allowing unscrupulous and untrained individuals to operate within it. This creates a potential for the industry to be used as a vehicle for extortion, compromising the health and safety of those making use of the private security service.

5.2 This can disadvantage good employers who bear higher costs from training and employing high quality staff, which must be met somehow, normally by passing these costs on to the customer.

Developments in other jurisdictions

² Paragraph 7 of Schedule 13 to the Terrorism Act 2000.

5.3 The Private Security Industry Act was passed in 2001 and under this legislation the Security Industry Authority (SIA – www.the-sia.org.uk) was established to permanently regulate the industry in England and Wales (and from November 2007, Scotland). Following permanent regulation elsewhere in the UK and Ireland, Northern Ireland companies find themselves on an unequal footing with the rest of the industry in the UK because the same rigorous standards established by the Private Security Industry Act 2001 are not applied or enforced by Schedule 13. This creates difficulties for companies wishing to operate on a UK-wide basis and prevents Northern Ireland companies from competing outside this jurisdiction.

Recommendations by the IMC and NIAC

5.4 The Fifth Report of the Independent Monitoring Commission³ stated that there was direct evidence of paramilitary involvement in the private security industry in Northern Ireland, resulting in many firms suffering from extortion. They stated that the current, temporary control regime in Northern Ireland was “less stringent” than the regime in England, Wales and Scotland, and was insufficient in preventing paramilitary infiltration into the industry.

5.5 In their recent report into organised crime⁴, the Northern Ireland Affairs Committee (NIAC) has identified the potential for exploitation of the industry by paramilitaries and organised criminals. It recommended that the area of regulation of the private security industry in Northern Ireland be dealt with as a matter of priority. It also identified the need for appropriate training and registration of door supervisors, and noted the problems with the form of self-regulation that is encouraged by some, but not all, councils throughout Northern Ireland.

Security Normalisation

5.6 Under the security normalisation agenda announced by the Secretary of State on 1 August 2005, Part VII of the Terrorism Act 2000 is to be repealed by 31 July 2007, subject to an enabling environment. In the absence of a permanent regulatory framework by 31 July 2007, the private security industry in Northern Ireland would be left completely unregulated. There would be no barriers at all to entry into the industry.

6. Rationale for Government intervention

6.1 To do nothing after the current provisions have expired risks encouraging criminal activity within the industry. An industry without adequate regulation would become inviting to those wishing to exploit it, making it a target industry for extortion and bad practice. Furthermore, a threat is presented to public safety if those operating as door supervisors are not appropriately trained in relevant areas, such

³ See paragraphs 6.11, 6.12 and 6.13 of the Fifth Report of the Independent Monitoring Commission (HC46) which was laid before Parliament on 24 May 2005.

⁴ See paragraphs 201-203 of the House of Commons Northern Ireland Affairs Third Report of Session 2005-06, Organised Crime in Northern Ireland (HC 886-II), published 5 July 2006.

as first aid or drugs awareness. Self-regulation of companies seems insufficient to tackle these issues.

7. Consultation

7.1 A consultation document entitled 'Regulating the Private Security Industry in Northern Ireland' was circulated to organisations representing the private security industry, political parties, relevant local authority organisations, and a wide variety of other organisations with an interest in or who avail of private security services. The document is available on the Northern Ireland Office website (www.nio.gov.uk). This document set out the options for regulation and highlighted the Government's preference, which is to extend the remit of the SIA, the regulatory body in England and Wales (and from November 2007, Scotland), to Northern Ireland.

7.2 The Government welcomed responses from organisations and individuals. The consultation paper included and welcomed comments on the results of the Equality Screening of these proposals, in line with the Department's Equality Scheme. The consultation formally closed on 24 October 2006.

7.3 Of the responses received from security companies, all were strongly in favour of the proposals to extend the remit of the SIA to Northern Ireland. This view was shared by the councils as well as the PSNI and the British Security Industry Association, the trade association covering all aspects of the professional security industry in the UK.

7.4 There was some concern from Northern Ireland sporting bodies and groups, who sought clarification that the proposals did not include the licensing of in-house security guards at sporting events. The Home Office has clarified that in England and Wales, certain security operatives at sports grounds under specific circumstances are exempt from regulation by the SIA. This exemption will be mirrored in Northern Ireland. The merit of local training and licensing schemes as run by the Federation of the Retail and Licensed Trade in Northern Ireland was raised and the Government hopes to retain the value of their training once permanent regulation is introduced in Northern Ireland.

7.5 The merit of local training and licensing schemes as run by the Federation of the Retail and Licensed Trade in Northern Ireland was raised and the Government hopes to retain the value of their training once permanent regulation is introduced in Northern Ireland. Details of respondents and an executive summary of the responses is attached at Appendix I.

7.6 The Government has taken into account all comments and views received on the consultation document and the Security Minister has given them his full attention in relation to developing a new scheme of regulation for the industry in Northern Ireland.

8. Options for Regulation

8.1 When considering future regulation of the industry, the Government examined four particular options, summarised below.

Option 1: Do nothing

Proposal

8.2 No new legislation to regulate the industry would be introduced to replace the current provisions contained in Schedule 13. The onus would be on companies to adopt a self-regulation policy.

Analysis

8.3 We do not think self-regulation would achieve the objectives set out above. A scheme established four years ago by the Federation of the Retail and Licensed Trade and British Inn-keeping Institute provided training and registration for door supervisors, and aimed to work with local councils. Disappointingly, many councils were not interested in this scheme and trainees were reluctant to register.

Conclusion

8.4 To do nothing risks leaving the industry open to criminal activity. It would become inviting to those wishing to exploit it, and without any form of regulation would become a target industry for extortion. This could create a risk to public safety.

8.5 Self-regulation seems insufficient, particularly as it will not achieve the objectives the Government has set out. The “do nothing” option was considered insufficient in the rest of the UK and Ireland. Following permanent regulation in the rest of the UK and Ireland, failure to regulate in Northern Ireland could send the wrong signal that it was a “safe haven” for unacceptable practice.

Option 2: Create a permanent version of Schedule 13

Proposal

8.6 Legislation would be drafted to put the current provisions contained in Schedule 13 on a permanent footing. No changes would be made to the original legislation and the situation and position of the industry would essentially remain unchanged from current arrangements. The NIO would continue to grant licences to applicants who satisfy the criteria that a proscribed organisation, or an organisation closely associated with a proscribed organisation, would not benefit from the granting of a licence.

Analysis

8.7 Schedule 13 does not address best practice issues such as specifying

levels of training of individuals working in the industry. Nor does it require a criminal conviction check which could render an applicant unsuitable for the job (for example, an applicant with a conviction for grievous bodily harm applying for a licence). These are the very areas which would seem to benefit from regulation.

Conclusion

8.8 Putting Schedule 13 on a permanent footing without addressing its current problems and failures would seem to be an ineffective solution.

Option 3: Extend the remit of the SIA to Northern Ireland

Proposal

8.9 A system of regulation similar or identical to that which exists in England and Wales would be adopted.

Detail

8.10 The Security Industry Authority (SIA) is the governing body in England and Wales (and from November 2007, Scotland). It is the organisation responsible for regulating the private security industry according to the requirements set out by the Private Security Industry Act 2001, the legislation under which it was established.

8.11 The function of the SIA is to prevent criminals entering the industry and also to raise standards in the private security industry by appropriately regulating it through licensing individuals who work within it. This in turn helps to improve the industry's image so that the general public and the wider business world have a much clearer understanding of how the industry is regulated and who is entitled to work in it. They achieve this regulation by applying criteria such as minimum levels of competency and 'fit and proper' criteria and carrying out identity and criminal record checks on all applicants. The suitability of the applicant to work in the private security industry is assessed and they are granted or refused a licence, according to the defined criteria.

8.12 The SIA also operates the Approved Contractor Scheme (ACS). The ACS, which is voluntary, sets standards across a range of areas for private security companies. Where a company is ACS accredited it provides an assurance to customers and others that the company has met a clearly defined and independently assessed set of quality standards.

8.13 The SIA regulate a number of sectors within the private security industry. The categories are broader than are currently regulated in Northern Ireland (manned guarding is currently the only licensed sector), but they all appear to be sectors that would benefit from regulation. These are:

- Door supervisors

- Vehicle immobilisers on private land
- Security guards
- Key holders
- Close protection operatives
- Cash and valuables in transit operatives
- CCTV (public space surveillance) operatives

8.14 It is an offence for someone working within a licensable sector to operate without a SIA licence; on summary conviction, the penalty is six months' imprisonment and/or a fine of up to £5000. It is also an offence to supply unlicensed security operatives with the above penalty but also on trial on indictment, there may be an unlimited fine and/or up to five years imprisonment.

Analysis

8.15 There are many advantages of using this option. In the main, individuals would require only one licence no matter where in the UK they worked, creating a consistency throughout the UK in terms of number of licences, licence conditions and training standards. It would also help to keep licence costs low. There would also be better and more consistent reinforcement of standards and codes, enabling local companies to compete on equal terms with the rest of the UK and Ireland.

8.16 When the SIA are considering whether or not to grant a licence, they take the date and the nature of any criminal offences into consideration. This means that someone with a past criminal conviction is not necessarily excluded from working in the industry. This ensures that the public are protected while allowing for the rehabilitation of those who have put criminal activities behind them.

8.17 Significant preparatory work would be required before implementation to ensure that the industry was well aware of and ready for the changes that SIA regulation would bring about. The industry would require enough notice in order to start training staff and apply for licences, so it would be expected that the application for licences would not commence immediately. All sectors as detailed above would be licensable in Northern Ireland.

Conclusion

8.18 This option appears to be the most efficient, cost-effective and satisfactory form of regulation in Northern Ireland. The advantages outweigh the caveats and by using the SIA as the regulating body, standards are automatically made equal throughout the UK. This will have a positive knock-on effect on the economy in Northern Ireland.

Option 4: Set up a dedicated Northern Ireland Agency

Proposal

8.19 The establishment of a dedicated private security agency in Northern

Ireland to govern and set standards among the industry.

Analysis

8.20 The Agency would have an authoritative role similar to the SIA and would be responsible for the issuing of licences and enforcement of standards in the industry, but would be tailored to the specific needs of NI. Although the provisions for the two bodies would be entirely separate, the regulatory regime would be broadly equivalent to that in the rest of the UK and Ireland.

8.21 The proposed new Authority would adopt similar standards and licence conditions as its neighbouring Authorities the SIA and the PSA, and each could liaise regularly and share information. However, it would not abolish the need to be licensed in separate jurisdictions in order to operate in each.

8.22 If a Northern Ireland agency was established to govern the industry, we would expect it to be self-financing rather than require ongoing subsidy from the Department. The licence cost would therefore have to bear not only the administrative costs of regulation, but also the cost of enforcement. The smaller size of the industry in Northern Ireland would mean that in order to deliver the same benefits as the SIA, the cost of a licence from a Northern Ireland agency would be disproportionately high and the associated bureaucracy disproportionately big for such a small industry. We estimate that for a Northern Ireland agency to be self-financing it could have to charge at least £600 (around three times the current SIA fee of £190).

8.23 To keep licence costs low, a 'bare minimum' of regulation could be provided for a smaller cost (£300-£400). In order to achieve this, the body might have to focus purely on the administrative process of licensing, ignoring the issue of enforcement. This could potentially undermine the value of the scheme by not pursuing enforcement. However, as we are unsure of the exact size of the industry in Northern Ireland, it is difficult to estimate more closely what the cost of a licence would need to be for a regulatory body to cover its costs.

8.24 Establishing a dedicated agency in Northern Ireland would also take a significant amount of time. This would mean a longer transitional period between Schedule 13 being repealed and the introduction of a new system (some delay is inevitable, but defensible if companies are in the process of being licensed). Leaving the industry without regulation for a long period of time would not be acceptable.

Conclusion

8.25 It is unlikely that this option would be able to deliver the same benefits as using an established agency, and could potentially have a negative impact on the industry due to the higher regulation costs. It would be capable of licensing but not enforcing, resulting in a less effective system than in the rest of the UK and Ireland. Combined with the disproportionate cost to both the industry and the Government (see table below), this option does not seem adequate.

9. Costs

Option	Cost
1	Small saving to NIO administrative costs.
2	Cost neutral.
3	<p>The application fee for an SIA licence (which is valid for three years) is currently £190, this includes the cost of obtaining a Disclosure from the Criminal Records Bureau (CRB).</p> <p>The total cost of licensing to the manned guarding sector of the industry is estimated as follows:</p> <p><i>Estimated 110 companies in manned guarding sector</i> <i>Average 45 employees per company</i> $110 \times 45 = \sim 4950$ manned guards</p> <p><i>Licensing cost to industry:</i> $4950 \times \text{£}190 = \text{£}940,500$</p> <p><i>Training cost:</i> The cost of obtaining the required training is on average £250. Applicants already holding qualifications may be eligible for accreditation of prior learning and therefore be exempt from further training requirements and associated costs.</p> <p>The SIA would be provided with an initial budget, for the first three years, to cover the start-up costs. After this, we expect the SIA to become self-financing through the costs of licences.</p>
4	<p>In the absence of firm indications of business proposed to any new Authority, it is not possible to provide detailed costs. Around 110 private security firms currently operate under a NIO licence, but this represents only one licensable sector (manned guarding).</p> <p>It is estimated that the cost of setting up a dedicated Northern Ireland Authority would be in excess of £3M. It is unlikely that there would be a sufficient volume of applications for security licences to justify these costs. With each UK licence currently costing £190, the SIA are sufficiently able to cover their costs. To fund a self-financing Northern Irish agency, the smaller size of the industry in Northern Ireland means that the licence fee would be disproportionately high in comparison to the rest of the UK and Ireland (the cost of a licence is estimated at around £600), which would most certainly discourage applicants. Otherwise, an ongoing subsidy would be required from the Government.</p>

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10. Benefits

10.1 Adequate regulation of the private security industry will yield many benefits which are difficult to quantify. The over-arching aim of regulation is to reduce offending in the private security industry, protecting people from crime and giving the public greater confidence in the industry. Licensing should reduce the operation of organised criminals within the industry and prevent exploitation. This in turn should prevent firms suffering extortion.

10.2 Expanding regulation to other sectors could help bear down on other issues. For example, regulation of door supervisors could help reduce the incidence of drug dealing and drug use in nightclubs.

10.3 Providing a form of regulation that puts Northern Ireland on an equal footing with the rest of the UK will enable local companies to compete on a national basis. The industry itself is likely to benefit positively from regulation if the PSNI, local authorities and the general public can have confidence in the people that are employed in it.

11. Business sectors affected

11.1 Private security companies within the private sector will be those directly affected by the introduction of regulation. The NIO has provided licences for around 110 private security companies operating within the manned guarding sector. However this is only one sector of the industry that could be licensed. It is not known how many employees there are operating within the industry as a whole in Northern Ireland, and in the absence of firm indications, it is not possible to quantify the size of the sector which will be affected by the new regulation. However, it is estimated that the average number of security guards employed by a company is between 30 and 50.

12. Small Firms Impact Test

12.1 Initial informal consultations with private security companies in Northern Ireland (many of whom are small companies) have affirmed that a permanent form of regulation would be welcomed. The impact of regulation on the private sector is positive as it will improve the industry and its competitiveness on a North/South, East/West basis. Many private security companies indicated that their preferred option for regulation would be the SIA.

12.2 Many within the industry have already undertaken to provide staff with thorough training, so introducing new criteria for a licence will not adversely affect those companies. It is therefore unlikely that the proposed policy options are likely to have a significant impact on small private security businesses.

12.3 Businesses which seek the services of private security companies are unlikely to be adversely affected by regulation and will benefit from the assurance that if a regulated company is hired, all staff are appropriately trained and suitable for the job. Due to the cost of training and licensing, it is possible that prices charged by regulated security companies may increase slightly.

13. Competition assessment

13.1 The competition filter test questions as set out by the Cabinet Office's Better Regulation Executive revealed that the proposals for regulation are likely to have little or no effect on competition between private security companies operating in Northern Ireland.

13.2 However, equalising standards throughout the UK is likely to increase the competitiveness of Northern Irish private security companies with those operating in the rest of the UK and Ireland. This is a welcome move for the private sector.

14. Implementation and delivery plan

14.1 The Northern Ireland Office is currently developing proposals with the Home Office and the SIA in relation to implementation and delivery, as well as enforcement, sanctions and monitoring once the SIA are operational in Northern Ireland. This Regulatory Impact Assessment will be updated where necessary when these proposals are finalised and agreed.

15. Post-implementation review

15.1 The SIA Board will report annually to the Secretary of State on the operation of the legislation and the performance of the Authority in meeting its aims and the report will be published. In addition, the SIA will publish annually its accounts and corporate and business plan.

16. Summary and recommendation

16.1 After carefully considering each of the four options, the Government believes that on balance, extending the remit of the Security Industry Authority is the right way forward. The issue has been explored with the Home Office and the SIA, and agreement has been secured that the remit of the SIA could be extended to cover Northern Ireland.

16.2 Using the SIA will ensure that standards are equal throughout the UK, and will increase Northern Ireland's ability to operate and compete on a national level. It is the most cost-effective and efficient option for regulation and will meet the objectives of regulation as outlined in paragraphs 3.1 and 3.2. The SIA's multi-agency

approach to compliance and enforcement activity sits well with the methods currently used in Northern Ireland and could be successful in tackling the problem of organised crime within the industry.

16.3 It is the Government's view that using the SIA to provide a robust regulatory framework will protect both those who are operating legitimately within the industry and those who avail of private security services.

17. Declaration and publication

17.1 I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

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**PAUL GOGGINS MP
PARLIAMENTARY UNDER-SECRETARY OF STATE**

Appendix I – Consultation respondents

Security contractor firms
Reliance Security Services Ltd
Special Events Security Ltd
Security Guard Company Northern Ireland
Eventsec
G4 Security Services
Security Industry Regulators
The Private Security Authority
Councils
Ards Borough Council
Newry and Mourne District Council
Ballymena Borough Council
Trade Associations
The Federation of the Retail Licensed Trade NI (FRLT)
British Security Industry Association
Training providers
Castlereagh College
Police
The Police Service of Northern Ireland
Sporting representative bodies
Ulster Rugby
Sports Council for Northern Ireland
Comhairle Uladh GLC (Ulster Council GAA)
Other
Disability Action
BII

Consultation summary

In general, responses from security companies and industry regulators showed great support for the proposals to extend the remit of the SIA to Northern Ireland. The greatest benefit identified is that Northern Ireland companies would be placed on an equal footing with companies operating in the rest of the UK and also in Ireland, allowing greater competition and a level playing field. Companies thought that SIA regulation in Northern Ireland would benefit employee, customer and service provider, inspiring confidence in the industry thereby improving its image. Currently, many companies who have undertaken to suitably train and register staff feel disadvantaged and undercut by alternative companies providing a cheaper service, and look forward to when obligatory standards are set.

A strong trend throughout the responses was the need for a joined-up approach between the SIA and the Private Security Authority (PSA), the Irish regulatory body. Cooperation between these two authorities in terms of both standards and training should allow ease of all-Ireland work within the private security industry without compromising quality of service. Companies operating both north and south of the border should be aware of the legislation in each jurisdiction – this was also identified as a potential training area.

Representations from various sporting bodies were also received. They were largely concerned that they would be caught within the SIA's remit, which clearly would cause a great burden on the sporting industry in Northern Ireland. The Northern Ireland Office regrets the confusion over the definition of 'private security services' and licensable sectors. The Home Office has clarified that in England and Wales, certain security operatives at sports grounds under specific circumstances are exempt from regulation by the SIA. The same exemption shall also apply in Northern Ireland.

Several respondents disagreed with the Government's proposals to extend the remit of the SIA to Northern Ireland. It was argued that this would be a costly venture, placing a heavy burden on the industry due to the cost of training and licensing. Issues concerning enforcement were raised and some felt that a dedicated Northern

Ireland agency would have greater success in enforcing standards and compliance in an industry which, in Northern Ireland, is inherently different to the equivalent in England and Wales. It was also suggested that if greater weight was placed behind the scheme of training and registration for door supervisors run by the Federation of the Retail Licensed Trade NI in conjunction with local councils, this could form the permanent regulation that Northern Ireland needs, rather than having a statutory body like the SIA to regulate.

SUMMARY OF A REPORT OF THE NORTHERN IRELAND ASSEMBLY ON THE PRIVATE SECURITY INDUSTRY ACT 2001 (AMENDMENT)(NI) ORDER 2009

1. A document containing a draft of the Private Security Industry Act 2001 (Amendment) (NI) Order 2009 (“the draft Order”) was laid with Parliament and referred to the Northern Ireland Assembly on 12 May 2009 as required by section 85(4). This is a summary of a report on the draft Order produced by an ad hoc committee of the Northern Ireland Assembly⁵ (“the committee”) which has been prepared in accordance with section 85(6)(a) of the Northern Ireland Act 1998.

Summary of representations

2. The committee made its formal report to be submitted to the Secretary of State on 29 June 2009 which the Northern Ireland Assembly approved by a resolution of the Assembly on that same day.
3. The committee did not propose that any changes be made to the drafting of the order. Their main recommendations were as follows:
 - The process (of extending the licensing regime under the Private Security Industry Act 2001 to Northern Ireland) should be slowed down to allow for further and fuller debate.
 - As a general recommendation there should be earlier consultation with the Assembly on legislative proposals. The NIO should in future ensure that the Assembly is in a position to avail itself of the full sixty day statutory consultation period provided for orders under section 85 of the Northern Ireland Act 1998.
 - In light of a recent National Audit Office report on the SIA the NIO should satisfy itself that the SIA has the capacity to cope with any extra workload that would result from the extension of its remit to Northern Ireland.
 - Applicants should be told in advance if they are going to be turned down on security grounds.
 - Where the training and licensing of company directors is required by the Private Security Industry Act 2001 consideration should be given to limiting this requirement to a single nominated director.
 - There appears to be some dispute over the costs of the various schemes that could potentially be put in place to regulate the private security industry. The NIO should look again at this issue in the light of all the evidence in this report.

⁵ The full name of the committee was the *Ad Hoc Committee on the Private Security Industry Order 2009*; the committee was set up on 18th May 2009.

- The NIO should consider a formal appraisal of the available options for licensing the private security industry.

The Minister of State for Northern Ireland, Rt. Hon. Paul Goggins MP considered the recommendations made by the report; however no changes have been made to the Order as a result of the Assembly's representations.

AD HOC COMMITTEE ON THE PRIVATE SECURITY INDUSTRY ORDER 2009

Report on the draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009

TOGETHER WITH MINUTES OF PROCEEDINGS OF THE COMMITTEE,
MINUTES OF EVIDENCE, WRITTEN SUBMISSIONS AND OTHER CORRESPONDENCE
RELATING TO THE REPORT.

**REPORT EMBARGOED
UNTIL COMMENCEMENT OF THE
DEBATE IN PLENARY**

Ordered by the Ad Hoc Committee to be printed 22 June 2009
Report: 39/08/09R (Ad Hoc Committee)

This document is available in a range of alternative formats.
For more information please contact the
Northern Ireland Assembly, Printed Paper Office,
Parliament Buildings, Stormont, Belfast, BT4 3XX
Tel: 028 9052 1078

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

The Committee was established by resolution of the Assembly on Monday 18 May 2009 in accordance with Standing Order 53(1). The remit of the Committee was to consider the proposal for the draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009, referred by the Secretary of State for Northern Ireland, and to submit a report to the Assembly by 30 June 2009.

The Committee had twelve members, including a Chairperson and Deputy Chairperson. Its quorum was five. The membership of the Committee was as follows:

Mr Trevor Clarke Chairperson
Mr Raymond McCartney Deputy Chairperson

Mr Cathal Boylan	Mr Allan Bresland
Mr Thomas Burns	Mr John Dallat
Dr Stephen Farry	Mr Stephen Moutray
Mr Alan McFarland	Mr David McNarry
Mr Adrian McQuillan	Ms Carafá Ní Chuilín

It was agreed by the Committee that where members were unable to attend meetings they could nominate MLA colleagues to do so.

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Acknowledgement

The Committee wishes to convey its appreciation to all who provided it with evidence and advice. It would not have been possible to produce this considered response to the legislative proposal without such committed and willing participation.

1. Introduction and Background

1.1 This report represents the work of the Ad Hoc Committee on the Draft Private Security Industry (Northern Ireland) Order 2009.

1.2. The Committee was established on Monday 18 May 2009 by resolution of the Assembly, with the following terms of reference:

To consider the proposal for a Draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009, referred by the Secretary of State for Northern Ireland, and to submit a report to the Assembly by 30 June 2009.

1.3 The Committee has twelve members, with a quorum of five. A Chairperson and a Deputy Chairperson were elected on Tuesday 26 May 2009. The membership of the Committee is as follows:

Mr Trevor Clarke, Chairperson
Mr Raymond McCartney, Deputy Chairperson

Mr Allan Bresland	Mr Stephen Moutray
Mr Thomas Burns	Mr Alan McFarland
Mr Cathal Boylan	Mr David McNarry
Mr John Dallat	Mr Adrian McQuillan
Dr Stephen Farry	Ms Carál Ní Chuilín

1.4 It was agreed by the Committee that where members were unable to attend meetings they could nominate Member of the Legislative Assembly (MLA) colleagues to do so.

1.5 The first meeting of the Committee took place on Tuesday 26 May 2009, when decisions were taken in relation to the calling of initial witnesses and the arrangements for subsequent evidence-taking.

1.6 The Committee placed an advertisement seeking responses to the Northern Ireland Office (NIO) proposal in the three provincial newspapers in week commencing 25 May 2009 and received one response. This is probably accounted for by virtue of the fact that the Ad Hoc committee had contacted all the main stakeholders directly.

1.7 At its meeting on Monday 1 June 2009 the Committee was given a background briefing on the draft legislation and the previous consultation which had preceded it by a member of the Assembly Research staff, followed by a presentation on the Draft Order by NIO officials.

1.8 The Committee met, in all, on 5 occasions between Tuesday 26 May 2009 and Monday 22 June 2009, during which time it developed and discharged a programme of work. Finally, it agreed at its meeting of 22 June 2009 that its report to the Assembly, was to be taken forward by the chair and deputy.

1.9 The minutes of proceedings of the Committee are shown at Appendix 1 and the record of the evidence given is shown at Appendix 2. The Committee was assisted by a researcher, Ms Ruth Barry, whose appreciation of the legislative proposals was given by way of oral and written advice. This was supported by two papers which are included at Appendix 5.

1.10 The Committee was cognisant of the fact that the Northern Ireland Office had already undertaken an extensive consultation exercise on its proposals to reform the private security industry in Northern Ireland. There were some 20 respondents. The Committee as part of its deliberations was able to access a useful summary and statistical material in relation to this.

- 1.11 Mr Paul Goggins MP, Minister of State for Northern Ireland, wrote to the Speaker on Tuesday 12 May 2009 referring the proposed Draft Order to the Assembly under Section 85 of the Northern Ireland Act 1998. Under the legislation the consultation process was limited to 60 parliamentary sitting days effective from Tuesday 12 May 2009 - the date of publication of the proposals - and running to Monday 20 July 2009.
- 1.12 The Minister of State met with MLA's on Monday 15 June 2009 to brief them in person on the details of the Draft Order. The proposals will make minor technical amendments required to ensure the Private Security Industry Act 2001 will operate in Northern Ireland as it does in the rest of the United Kingdom.
- 1.13 The effects of the Order, as summarised by the Minister, are as follows:
- increase public safety and confidence in the industry;
 - promote best practice within the industry and remove those who seek to use their position to pursue criminal activities;
 - raise standards of competence and professionalism for security companies;
 - improve the reputation of the industry;
 - protect and recognise companies and individuals who operate to high standards and who have invested in training and selective recruitment;
 - specify minimum levels of training for security personnel; and
 - make the industry an attractive career choice.
- 1.14 Copies of the Draft Order and Explanatory Document issued by the Northern Ireland Office are available from the Northern Ireland Office by emailing this address :-gavin.greenlees@nio.x.gsi.gov.uk .

2. Coverage of the Draft Order

- 2.1 The proposed Draft Order is the outcome of a review of the private security industry in Northern Ireland. Its aim is that activities which are currently designated under the Private Security Industry Act 2001, in relation to England and Wales and Scotland, will be designated in Northern Ireland from December 2009 onwards, although this has subsequently changed and is discussed later.
- 2.2 One of the effects of this Order will be that a Security Industry Authority (SIA) licence will be required from 1 December 2009 for each different licensable activity undertaken. These are:
- Cash and Valuables in Transit
 - Close Protection
 - Public Space Surveillance (CCTV)
 - Security Guarding
 - Key Holding
 - Immobilisation, restriction and removal of vehicles
 - Door Supervision (extended to 01 April 2010).
- 2.3 The Draft Order is intended to make a number of technical amendments to the 2001 Act as follows:-
- 2.4 **The first amendment** relates to an exemption in section 4 of the Act for those working in certain sports grounds from any requirement to hold a licence under the Act. The exemption does not apply in Northern Ireland as it is defined by reference to the Safety of Sports Grounds Act 1975 and the Fire Safety and Places of Sport Act 1987, neither of which extends to Northern Ireland. The amendment will extend the exemption to Northern Ireland by adding references to the Safety of Sports Grounds (NI) Order 1976, which is the equivalent Northern Ireland legislation.
- 2.5 **The second amendment** relates to Schedule 2 which lists the various activities that can be designated under the Act (the designation triggers the requirement to hold a SIA Licence).
- 2.6 One of the activities listed at paragraph 8 of Schedule 2, is the work of door supervisors or other security personnel in licensed premises.
- 2.7 The definition of licensed premises in paragraph 8(2) of the Schedule currently only refers to licensed premises in England and Wales and Scotland. The amendment will add references to licensed premises in Northern Ireland, ensuring that those working in Northern Ireland are also covered by the Act.
- 2.8 Further instruments are planned under the powers to pass secondary legislation provided by the Act itself to make some additional amendments to Schedule 2 to the Act, in order to take account of Northern Ireland legislation, to bring the Act fully into force in Northern Ireland and to designate licensable activities in Northern Ireland. When the orders are made, the licensing scheme under the Private Security Industry Act 2001 will be fully operational in Northern Ireland.
- 2.9 Appendix 6 of this document provides a copy of the Draft Order.

3. Consultation

- 3.1 Northern Ireland Ministers gave a commitment to the extension to Northern Ireland of licensing under the 2001 Act by the SIA, with the licence requirement commencing in December 2009.
- 3.2 A consultation document entitled ‘Regulating the Private Security Industry in Northern Ireland’ was circulated in August 2006, to organisations representing the private security industry, political parties, relevant local authority organisations and other interested parties and set out the options for regulation and highlighted the Government’s preference, to extend the remit of the SIA to Northern Ireland. The consultation formally closed on 24 October 2006.
- 3.3 In responding, security companies were all strongly in favour of the proposals to extend the remit of the SIA to Northern Ireland. This view was shared by the local authorities, the Police Service of Northern Ireland and the British Security Industry Association, the trade association covering all aspects of the professional security industry in the UK.
- 3.4 No separate public consultation on the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 has been carried out, as it is intended only to make minor amendments to the 2001 Act, to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.
- 3.5 A copy of the 2006 consultation document is to be found on the NIO Website http://www.nio.gov.uk/regulating_the_private_security_industry_in_northern_ireland.pdf

4. Findings and Recommendations

- 4.1. The first point to be made is that the Draft Order is essentially about the relatively narrow issue of extending arrangements on the regulation of the Private Security Industry, which apply elsewhere in the UK, to Northern Ireland. The Committee in examining this issue has, necessarily, had to look at what this will mean for stakeholders in Northern Ireland and at the alternatives to what has been proposed. We have had to do so in a very constricted timescale.
- 4.2 The Assembly, and the Committee, were given a relatively short period to consider this contentious issue. This was done in accordance with statutory provisions. However the difficulty for the Committee in this case was that arrangements for Assembly recess come into play nearly three weeks before the statutory sixty day expiry date. The Committee takes the view that the NIO should have factored this in when deciding on a date for the laying of the Draft Order.
- 4.3 The result of not doing so is that the Assembly was effectively denied the full sixty day consultation period. The Committee feels that it was left with insufficient time to do its job owing to this regrettable limiting factor. Furthermore the Assembly has no committee with any brief that is of practical assistance in this general area. It is therefore at a disadvantage in considering issues such as this, since they arrive with little notice.
- 4.4 In consequence of the above we make the general point that it is in everyone's interest that, where at all possible, there is consultation with the Assembly on legislative proposals at an earlier stage, perhaps well in advance of laying a Draft Order.
- 4.5 The Committee welcomes the Minister's assurances that Northern Ireland will get a system that recognises and acknowledges local issues. We believe that if this approach is adhered to, the right decisions can be made in the best interests of the many Northern Ireland stakeholders.
- 4.6 Without prejudice to the final outcome of this matter the Committee is most appreciative of the ministerial initiative to extend the deadline for applicants to obtain a license from December 2009 to 1 April 2010. There is no good reason for haste and the Committee feels that the deadline change was a move in the right direction.
- 4.7 The Committee notes that there is a body of evidence which points to the need to slow the process down to allow for further and fuller debate.
- 4.8 It has been argued that the system works well and will ensure consistency across the UK but the Committee felt it is also important to fully recognise and take on board the well-argued opinions and experiences of the stakeholders here, who are close to local issues and concerns. If the 2001 Act is extended to Northern Ireland the SIA will, in any case, have to consider factors that apply only to Northern Ireland such as official guidance and judicial rulings.
- 4.9 The Committee also notes the findings of the recent National Audit Office report on the performance of the SIA. The NIO should, in the light of this report, satisfy itself as to the capacity of the SIA in relation to any additional caseload that might arise as a result of the extension of the UK legislation to Northern Ireland.
- 4.10 The Committee was particularly concerned with the prospect, under these proposals, of upfront charges being made before unsuccessful applicants with a conflict - related conviction have been made aware that they will be refused a licence.
- 4.11 There are at least two costs to applicants: the cost of the license itself and the cost of applicant training. There may be other costs to some applicants such as taking time off paid work to undergo training. These

are costs that could amount to at least £500 per applicant. It is also important to ensure that applicants know in advance of having to embark on and pay for their training, whether they are going to be turned down on security grounds. It is appreciated that this issue is outwith the scope of the Draft Order but we strongly recommend that it is examined and consideration given where necessary to the waiving of charges or of refunding for applications that have failed or are destined to fail.

- 4.12 This is an important policy issue on which the Department should form a view which should in turn feed through to, and be accommodated by, the SIA in relation to licence fees.
- 4.13 The Committee was concerned that all directors of companies employing SIA licensed security personnel would have to undertake training and licensing and pay the associated costs. This seems onerous and quite disproportionate. We would strongly suggest that ways should be examined to see whether this requirement could be modified, by whatever means necessary, to perhaps a single nominated director.
- 4.14 One of the major concerns of the Committee was the high cost of obtaining a licence for door staff (£245) when compared to current local arrangements which cost around £30.
- 4.15 Arguments against centralised 'local' systems include their supposed high costs and resultant licence charge of £600 per person (revised down substantially in subsequent written evidence). Details of the NIO breakdown are included at Appendix 3. As against this Belfast City Council has computed costs of their scheme at £178 per person. These figures are subject to a 10% variance which would bring the cost to the applicant to just under £200 at the maximum.
- 4.16 Time constraints do not allow the Committee to enter into an investigation into the differences. But differences there are and we feel that it is unwise to make decisions on the basis of such disputed information and that this argues further for a slow down in decision making until a fuller consideration of these issues has taken place. 'Costs' are an extremely important consideration for all of the stakeholders.
- 4.17 The Committee in the timescale available has not been able to make a judgment on whether the local schemes are comparable in terms of quality with the SIA delivered arrangements. More importantly we do not have reliable evidence on the comparable effectiveness and value-for-money of the main competing options and on which is of best value to the public purse.
- 4.18 Belfast City Council has offered to engage in the process further by preparing costings of a local scheme based on the SIA scheme. For this they would need details of the SIA scheme to be made available to them by the NIO or SIA, (see email of 17 June 2009 at Appendix 3). The Committee feels that this is an important area of exploration for the NIO.

5. Summary of Main Recommendations

- The process should be slowed down to allow for further and fuller debate.
- As a general recommendation there should be earlier consultation with the Assembly on legislative proposals. The NIO should in future ensure that the Assembly is in a position to avail of the full sixty day statutory period.
- In light of the critical audit report on the SIA the NIO should satisfy itself that the SIA has the capacity to cope with any extra workload that would result from the extension of its remit to Northern Ireland
- Applicants should be told in advance if they are going to be turned down on security grounds.
- There should be consideration given to limiting the training and licensing of company directors to a single nominated director.
- There appears to be some dispute over option costs. The NIO should revisit these in the light of all the evidence in this report.
- The NIO should consider a formal option appraisal.

Conclusion

The Committee agrees with the need for Regulation but would have wished for more time to fully consider the options or variations thereof.

No recent public consultation was undertaken relating directly to this Order and it is felt that, had this happened, the decision-making process might have benefited.

We feel that this is not a time-critical issue and the Minister should reflect on the verbatim evidence given in this report and should consider further engagement with the stakeholders before making any final decisions on what is an important matter for those affected. In particular, attention should be given to the relevant costings and benefits of competing schemes and serious consideration given to a formal option appraisal.

Appendix 1

**Minutes of Proceedings
Relating to the Report**

Tuesday, 26 May 2009

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Raymond McCartney MLA (Deputy Chairperson)
Mr Cathal Boylan MLA
Mr Thomas Burns MLA
Dr Stephen Farry MLA
Mr Alan McFarland MLA
Mr David McNarry MLA
Mr Adrian McQuillan MLA
Ms Carál Ní Chuilín MLA

Apologies: Mr Stephen Moutray MLA
Mr Allan Bresland MLA

In Attendance: Mr Denis Arnold (Committee Clerk)
Ms Ellis Haughey (Committee Clerk)
Mrs Antonia Hoskins (Assistant Clerk)
Miss Mairead Higgins (Clerical Supervisor)
Miss Joanne McCarter (Clerical Officer)

The meeting opened at 10.06 a.m. in closed session with the Clerk in the Chair.

1. **Apologies**

The apologies are detailed above.

2. **Election of Chairperson and Deputy Chairperson**

The Clerk then called for nominations for the position of Chairperson.

Mr Adrian McQuillan proposed Mr Trevor Clarke; Mr David McNarry seconded this proposal.

Mr Cathal Boylan proposed Mr Raymond McCartney; Ms Carál Ní Chuilín seconded this proposal.

There being no further nominations, the Clerk put the question to the member first proposed that “Mr Trevor Clarke take the chair.”

The Committee divided:

Aye's	Noe's
Mr Trevor Clarke	Mr Cathal Boylan
Mr Alan McFarland	Mr Raymond McCartney
Mr David McNarry	Ms Carál Ní Chuilín
Mr Adrian McQuillan	

Mr Trevor Clarke accepted the nomination and was duly elected as Chairperson of this Committee.

The Chairperson assumed the chair at 10.10 a.m.

The meeting was suspended at 10.11 a.m. in order for the Clerk to brief the Chairperson.

The meeting resumed at 10.20 a.m. with Mr Trevor Clarke in the Chair.

The Chairperson called for nominations for the position of deputy Chairperson.

Mr Cathal Boylan proposed Mr Raymond McCartney; Ms Carál Ní Chuilín seconded this proposal

There being no further nominations, the Chairperson put the question without debate.

Question put and agreed: “that Mr Raymond McCartney be deputy Chairperson of this Committee”

Mr Raymond McCartney accepted the nomination and was duly elected as deputy Chairperson of this Committee.

10.22 a.m. The meeting moved onto open session.

3. **Committee Membership**

Members noted the composition of the Committee and the Chairperson introduced the other Committee Office staff.

The Chairperson advised Members that previous Ad Hoc Committees had allowed deputies to stand in where Members could not attend.

Agreed: It was agreed that nominated Members should try their best to attend meetings to ensure continuity, especially given the Committee’s very tight timescale, but that deputies could attend in their place.

4. **Procedures**

The Committee noted the guidance papers provided by the Clerk on:

- a) Powers and operation of Statutory Committees for Chairpersons and Members.
- b) The role of the Committee Chairperson.
- c) The role and functions of the Committee Office.

In particular, the Committee’s attention was brought to the guidance in relation to privilege and sub-judice.

Members were advised of the research services available to support the Committee in its work.

5. **Declaration of Interests**

The Chairperson reminded Members that the Guide to the Rules relating to the Conduct of Members requires that, before the first meeting of a Committee, Members must send to the Committee Clerk details of any interests, financial or otherwise, for circulation to the Committee.

The Chairperson invited Members to declare any interests and to forward their Declaration of Interests in writing to the Committee Clerk.

Ms Carál Ní Chuilín declared that she was treasurer of Coiste na n-Iarchimí.

Mr Raymond McCartney declared he was chairperson of Coiste na n-Iarchimí.

The Chairperson declared that his sister is a senior executive of Guard Force Security Company.

6. **Legislation and Forward work Programme**

The Clerk gave a brief outline of the current NIO position in terms of consultation on the Draft Private Security Industry (NI) Order 2009 and the Committee's role in this.

The Clerk also advised that Assembly Research Services had been asked to provide a briefing paper for Members on the provisions of the Draft Order.

Agreed: The Committee agreed that Assembly Research staff should give an oral briefing on the consultation on the draft regulations at the next meeting.

10.26 a.m. Mr McQuillan left the meeting.

10.30 a.m. Dr Farry joined the meeting.

Agreed: It was agreed that NIO officials and officials from the Federation of the Retail Licensed Trade (NI) be invited to brief the Committee at its next meeting on the provisions of the Draft Order.

Agreed : It was agreed to request a copy of the summary of responses from the NIO consultation.

Agreed: The Committee agreed that oral evidence sessions be covered by Hansard.

7. **Draft Press release and public notice**

Agreed: The Committee agreed a press release; subject to a minor amendment and to issue a public notice, seeking written submissions on the proposed legislation.

8. **Any other business**

The Clerk confirmed that the report on the draft Private Security Industry (NI) Order 2009 should be brought before the Assembly for debate by 30 June 2009.

9. **Date, Time and Place of next meeting**

The next meeting of the Ad Hoc Committee will be held on Monday 1 June at 1 p.m. in Room 152, Parliament Buildings.

The Chairperson adjourned the meeting at 10.36 a.m.

Mr Trevor Clarke MLA
Chairperson
Ad Hoc Committee on Private Security Industry (NI) Order 2009
1 June 2009

Monday, 1 June 2009

Room 152, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Raymond McCartney MLA (Deputy Chairperson)
Mr Thomas Burns MLA
Dr Stephen Farry MLA
Mr Alan McFarland MLA
Mr Adrian McQuillan MLA
Ms Carál Ní Chuilín MLA

Apologies: Mr Allan Bresland MLA
Mr David McNarry MLA

In Attendance: Mr Denis Arnold (Committee Clerk)
Ms Ellis Haughey (Committee Clerk)
Mrs Antonia Hoskins (Assistant Clerk)
Miss Mairead Higgins (Clerical Supervisor)
Miss Joanne McCarter (Clerical Officer)

The meeting opened at 1.02 p.m. in open session.

1. **Apologies**

The apologies are detailed above.

2. **Draft Minutes of 26 May 2009**

The minutes of proceedings for Tuesday 26 May 2009 were agreed by the Committee.

3 **Matters Arising**

The Committee noted the updated list of Members interests. The Chairperson invited those Members who have yet to do so, to declare any interests and to forward this in writing to the Committee Clerk.

The Committee noted the Northern Ireland Office summary of responses received to their consultation on the regulating of the private security industry.

Members noted the Hansard extract of 18 May 2009 detailing the terms of reference of the Committee.

1.05 p.m. Mr McQuillan joined the meeting.

The Committee noted the extract from the Northern Ireland Affairs Committee Report on Organised Crime in Northern Ireland (2005-06).

4. **Research Presentation on the regulation of the private security industry in Northern Ireland**

Miss Ruth Barry from the Assembly Research and Library Service, briefed the Committee on the draft Private Security Industry Act 2001(Amendment) (NI) Order 2009 and drew Members attention to the issues that arose in the Northern Ireland consultation paper in 2006. This was followed by a question and answer session.

5. **Oral evidence session with the Northern Ireland Office**

1.06 p.m Departmental officials joined the meeting.

Departmental officials, Mr Steven McCourt and Mr Gavin Greenlees, from the Northern Ireland Office briefed the Committee on extending the security industry authority regulation to Northern Ireland. A question and answer session followed.

Mr McCartney declared an interest as chairperson of Coiste na n-Iarchimí.

Departmental officials agreed to provide clarification on a number of issues.

The Chairperson thanked the witnesses for attending.

1.28 p.m. Mr Burns left the meeting.

Agreed: It was agreed to request that Minister Goggins come before the Committee.

Hansard recorded the evidence session for publication in the Committee's report.

2.00 p.m Departmental officials moved to the public gallery to hear the next session at the invitation of the Chairperson.

6. **Oral evidence session from the Federation of the Retail Licensed Trade NI**

2.01 p.m Representatives from the Federation of the Retail Licensed Trade NI joined the meeting.

2.03p.m. Mr Burns rejoined the meeting.

Members took oral evidence from Mr Colin Neill, Mr Philip McCann and Mr Stephen Magorrian representing the Federation of the Retail Licensed Trade NI.

Dr Farry declared an interest as a Councillor in North Down Borough Council.

2.18 p.m. Mr Burns left the meeting.

A question and answer session followed. The Chairperson thanked the witnesses for attending.

2.37 p.m Representatives from the Federation of the Retail Licensed Trade NI left the meeting.

2.38 p.m. Mr McCartney left the meeting.

2.38 p.m Departmental officials rejoined the meeting.

The Chairperson recalled Departmental officials, Mr Steven McCourt and Mr Gavin Greenlees from the Northern Ireland Office, to address issues raised in the previous session.

2.39 p.m Departmental officials left the meeting.

Agreed: The Committee agreed to seek further guidance regarding interim arrangements for licensing.

Hansard recorded the evidence session for publication in the Committee's report.

7. **Chairpersons Business**

The Chairperson informed Members that the public notice giving detail of the legislation was placed in the newspapers on Friday 29 May 2009.

8. **Outline plan**

Members were briefed by the Clerk on the outline plan for the report on the Private Security Industry (NI) Order 2009.

Agreed: The Committee agreed to seek an oral evidence session with Belfast City Council and North Down Borough Council at its next meeting.

9. **Correspondence**

None received.

10. **Any other business**

None raised.

11. **Date, Time and Place of next meeting**

The next meeting of the Ad Hoc Committee will be held on Monday 8 June at 1 p.m. in Room 152, Parliament Buildings.

The Chairperson adjourned the meeting at 2.49 p.m.

Mr Raymond McCartney MLA
Deputy Chairperson
Ad Hoc Committee on Private Security Industry (NI) Order 2009
8 June 2009

Monday, 08 June 2009

Room 152, Parliament Buildings

Present: Mr Raymond McCartney MLA (Deputy Chairperson)
Mr Cathal Boylan MLA
Mr Thomas Burns MLA
Mr John Dallat MLA
Mr Alan McFarland MLA
Mr David McNarry MLA
Ms Carál Ní Chuilín MLA

Apologies: Mr Allan Bresland MLA
Mr Trevor Clarke MLA (Chairperson)
Mr Adrian McQuillan MLA
Mr Stephen Moutray MLA

In Attendance: Mr Denis Arnold (Committee Clerk)
Mrs Antonia Hoskins (Assistant Clerk)
Miss Mairead Higgins (Clerical Supervisor)
Miss Joanne McCarter (Clerical Officer)

The meeting opened at 1.00 p.m. in open session.

1. **Apologies**

The apologies are detailed above.

2. **Draft Minutes of 1 June 2009**

The draft minutes of proceedings for Monday 1 June 2009 were agreed by the Committee.

3 **Matters Arising**

The Committee noted the updated list of Members interests.

1.03 p.m. Mr Dallat joined the meeting

1.03 p.m. Mr Burns joined the meeting

Members noted the memo from the Clerk advising that Minister Goggins would attend the Committee on 15 June 2009.

Agreed: The Committee agreed that the meeting with Minister Goggins would be held in the Senate Chamber and agreed a press release.

Mr Burns declared an interest as a member of Antrim Borough Council.

Mr Dallat declared an interest as a member of Coleraine Borough Council.

Ms Ní Chuilín declared an interest as treasurer of Coiste na n-Iarchimí.

4. **Oral evidence session with North Down Borough Council**

1.05 p.m. The representative from North Down Borough Council joined the meeting.

Members took oral evidence from Mr David Brown representing the North Down Borough Council.

1.19 p.m. Mr Burns left the meeting.

A question and answer session followed. The Deputy Chairperson thanked the witnesses for attending.

Hansard recorded the evidence session for publication in the Committee's report.

1.39 p.m. The representative from North Down Borough Council left the meeting.

1.40 p.m. Mr Dallat left the meeting.

1.40 p.m. The meeting suspended to await representatives from Belfast City Council.

1.49 p.m. The meeting resumed in open session.

5. **Oral evidence session with Belfast City Council**

1.49 p.m. Representatives from Belfast City Council joined the meeting.

Members took oral evidence from Mr Trevor Martin, Mr Brian Magill and Mr James Cunningham representing Belfast City Council. A question and answer session followed. The Deputy Chairperson thanked the witness for attending.

Hansard recorded the evidence session for publication in the Committee's report

2.35 p.m. Representatives from Belfast City Council left the meeting.

2.36 p.m. Mr McNarry left the meeting.

2.36 p.m. The meeting suspended as inquorate.

2.42 p.m. The meeting resumed in open session.

2.42 p.m. Mr Dallat rejoined the meeting

6. **Oral evidence session with Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)**

2.42 p.m. Representatives from NIACRO joined the meeting.

Members took oral evidence from Mr Pat Conway, Ms Heather Reid and Ms Ann Reid representing NIACRO. A question and answer session followed. The Deputy Chairperson thanked the witness for attending.

Hansard recorded the evidence session for publication in the Committee's report.

2.55 p.m. Representatives from NIACRO left the meeting.

Agreed: The Committee agreed to request research to outline the position with regard to the employment of those with conflict related convictions.

7. **Chairpersons Business**

The Deputy Chairperson had no business to record.

8. **Correspondence**

None received.

9. **Any other business**

None raised.

10. **Date, Time and Place of next meeting**

The next meeting of the Ad Hoc Committee will be held on Monday 15 June 2009 at 11.45 a.m. in the Senate Chamber, Parliament Buildings.

The Deputy Chairperson adjourned the meeting at 2.56 p.m.

Mr Raymond McCartney

Deputy Chairperson

Ad Hoc Committee on Private Security Industry (NI) Order 2009

22 June 2009

Monday, 15 June 2009

Senate Chamber, Parliament Buildings

- Present:** Mr Trevor Clarke MLA (Chairperson)
Mr Allan Bresland MLA
Mr Thomas Burns MLA
Dr Stephen Farry MLA
Mr Stephen Moutray MLA
Mr Adrian McQuillan MLA
Ms Carál Ní Chuilín MLA
- Apologies:** Mr Cathal Boylan MLA
Mr Raymond McCartney MLA (Deputy Chairperson)
Mr Alan McFarland MLA
- In Attendance:** Mr Denis Arnold (Committee Clerk)
Ms Eilis Haughey (Committee Clerk)
Mrs Antonia Hoskins (Assistant Clerk)
Miss Mairead Higgins (Clerical Supervisor)
Miss Joanne McCarter (Clerical Officer)
Ms Ruth Barry (Assembly Researcher)

The meeting opened at 11.58 a.m. in open session.

1. **Apologies**

The apologies are detailed above.

2. **Draft Minutes of 8 June 2009**

Subject to minor amendments, agreement of the draft minutes of proceedings for Monday 8 June 2009 was deferred to Monday 22 June 2009.

12.02 p.m. Dr Farry joined the meeting

3. **Matters Arising**

The Committee noted the OFMDFM guidance re 'Recruiting people with conflict related convictions'.

The Committee noted the Assembly Research paper on the current position of employment of persons with conflict related convictions.

Members noted the National Audit Office Report 2008 on regulating the security industry.

The Committee noted the response from the Northern Ireland Office (NIO) providing clarification of a number of issues raised by the Committee relating to the Security Industry Authority (SIA).

Members noted information from the SIA website (Northern Ireland section), relating to conflict related convictions.

The Committee noted the response from Mr John Montague (SIA) providing clarification on a number of issues raised by the Committee.

4. **Written submission**

The Committee noted the written submission from the British Security Industry Association.

The Committee noted the written response from the Police Service of Northern Ireland.

5. **Oral evidence session with the Minister of State, Paul Goggins MP**

The Committee noted the Minister's letter of 12 May 2009, regarding his proposed amendments.

12.05 p.m The Right Honourable Paul Goggins MP, Minister of State and NIO officials joined the meeting.

The Right Honourable Paul Goggins MP, Minister of State accompanied by NIO Officials, Mr Steven McCourt; Mr Ronnie Armour and Mr Gavin Greenlees, briefed the Committee on his plans to extend legislation for regulating the Private Security Industry to Northern Ireland.

A question and answer session followed.

12.35 p.m. Mr Burns joined the meeting

12.36 p.m. Mr Moutray left the meeting

The Chairperson thanked the Minister and his officials for attending.

Hansard recorded the evidence session for publication in the Committee's report

12.40 p.m The Right Honourable Paul Goggins MP, Minister of State and NIO officials left the meeting.

12.40 p.m. Dr Farry left the meeting

6. **Oral evidence session with the Federation of the Retail Licensed Trade NI**

12.41 p.m Representatives from the Federation of the Retail Licensed Trade NI joined the meeting.

Mr Colin Neill, Mr Philip McCann and Mr Stephen Magorrian representing the Federation of the Retail Licensed Trade NI, briefed the meeting on their consideration of the Minister's evidence. A question and answer session followed. The Chairperson thanked the witnesses for attending.

1.00 p.m Representatives from the Federation of the Retail Licensed Trade NI left the meeting.

Agreed: The Committee agreed to seek further clarification from the Northern Ireland Office, on a number of issues.

Agreed: The Committee agreed to seek information from the Society of Local Authority Chief Executives and Senior Managers.

7. **Chairpersons Business**

The Chairperson informed the Committee that he spoke in his capacity as MLA when being interviewed by BBC Radio Ulster on Thursday 11 June 2009, on the licensing of doormen.

The Chairperson advised Members that in order to meet the Assembly's deadline of 30 June 2009, the Committee would need to consider, agree and order to print, the content and recommendations of its Report and also to agree the Committee Motion for debate at next week's meeting.

8. **Correspondence**

None received.

9. **Any other business**

None raised.

10. **Date, Time and Place of next meeting**

The next meeting of the Ad Hoc Committee will be held on Monday 22 June 2009 at 1.00 p.m. in Room 144, Parliament Buildings.

The Chairperson adjourned the meeting at 1.05 p.m.

Mr Trevor Clarke

Chairperson

Ad Hoc Committee on Private Security Industry (NI) Order 2009

22 June 2009.

Monday, 22 June 2009

Room 144, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Raymond McCartney MLA (Deputy Chairperson)
Mr Cathal Boylan MLA
Mr Allan Bresland MLA
Dr Stephen Farry MLA
Mr Stephen Moutray MLA
Mr Alan McFarland MLA
Mr David McNarry MLA
Ms Carál Ní Chuilín MLA

Apologies: Mr Adrian McQuillan MLA

In Attendance: Mr Denis Arnold (Committee Clerk)
Mrs Eilis Haughey (Committee Clerk)
Mrs Antonia Hoskins (Assistant Clerk)
Miss Mairead Higgins (Clerical Supervisor)
Miss Joanne McCarter (Clerical Officer)

The meeting opened at 1.06 p.m. in open session.

1. **Apologies**

The apologies are detailed above.

2. **Draft Minutes of 8 June 2009**

Subject to minor amendments, the minutes of proceedings for Monday 8 June 2009 were agreed by the Committee.

3. **Draft Minutes of 15 June 2009**

The minutes of proceedings for Monday 15 June 2009 were agreed by the Committee.

4. **Matters Arising**

The Chairperson invited those Members who have yet to do so, to declare any interests.

The Committee noted the response from Liam Hannaway, Hon. Secretary, Society of Local Authority Chief Executives and Senior Managers (SOLACE NI) further to the Committee's inquiry on the proposed legislation.

1.10 p.m. Dr Farry joined the meeting.

1.11 p.m. Mr McNarry joined the meeting.

The Committee noted the estimated breakdown of the cost for an applicant for a Door Supervisors Licence, under Belfast City Council's current registration scheme.

5. **Chairperson Business**

No Chairperson's business recorded.

6. **Correspondence**

No correspondence received.

Agreed: The Committee agreed that the meeting would move into closed session to discuss the draft report.

The meeting moved into closed session at 1.12 p.m.

7. **Consideration of the Draft Report**

Agreed: The Committee agreed the following sections of the report:

Section 1 - Introduction and Background – read and agreed.

Section 2 - Coverage of the Draft Order - read and agreed.

Section 3 - Consultation – read and agreed.

1.14 p.m. Ms Carál Ní Chuilín joined the meeting.

1.25 p.m. Mr Moutray left the meeting.

Section 4- Findings and Recommendations – read and agreed, subject to amendment.

1.58 p.m. Mr McNarry left the meeting.

2.10 p.m. Mr McCartney left the meeting.

2.20 p.m. Mr McCartney rejoined the meeting.

Section 5- List of Recommendations and Conclusions – read and agreed, as amended.

Agreed: The Committee agreed that the following papers should be appended to the Committee's report:

Minutes of Proceedings

Minutes of Evidence

List of Written Submissions and other Correspondence considered by the Committee.

Written Submissions to the Committee

List of Witnesses

Research Papers

Draft Order

Agreed: The Committee agreed that the Chairperson and deputy Chairperson should approve the final report (as amended) prior to ordering the report to be printed.

Agreed: The Committee agreed to table the following motion for debate in the Business Office:

“That this Assembly approves the Report of the Ad Hoc Committee (39/08/09R) set up to consider the draft Private Security Industry (Northern Ireland) Order 2009, should be submitted to the Secretary of State for Northern Ireland as a Report of the Northern Ireland Assembly.”

The Chairperson advised Members that the report would be debated in plenary on Monday 29 June 2009

Agreed: The Committee agreed a press release.

8. **Any other business**

None.

The Chairperson adjourned the meeting at 2.30 p.m.

Appendix 2

Minutes of Evidence

Briefings and evidence received by the Committee

Presentation from Assembly Research and Library Services - 1 June 2009	31
Briefing from the Northern Ireland Office (NIO) officials - 1 June 2009	32
Evidence from the Federation of Retail Licensed Trade Northern Ireland - 1 June 2009	40
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Evidence from the Northern Ireland Association of the Care and Resettlement of Offenders in Northern Ireland (NIACRO) - 8 June 2009	61
Evidence from Mr Paul Goggins MP, Minister of State for Northern Ireland and NIO Officials - 15 June 2009	65
Evidence from the Federation of Retail Licensed Trade Northern Ireland - 15 June 2009	71

1 June 2009

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Raymond McCartney (Deputy Chairperson)
 Mr Thomas Burns
 Ms Carál Ní Chuilín
 Dr Stephen Farry
 Mr Alan McFarland
 Mr Adrian McQuillan

Witnesses:

Mr Gavin Greenlees	}	Northern Ireland Office
Mr Steven McCourt		
Mr Philip McCann	}	Federation of the Retail Licensed Trade NI
Mr Stephen Magorrian		
Mr Colin Neill		

1. **The Chairperson (Mr T Clarke):** I welcome Ms Ruth Barry from Assembly Research and Library Services, who will make a short presentation before we hear evidence from witnesses.

2. **Ms Ruth Barry (Assembly Research and Library Services):** The purpose of this presentation is to provide a brief overview of the research paper entitled ‘The Regulation of the Private Security Industry in Northern Ireland’. The research paper provides information on the draft Private Industry Act 2001 (Amendment) (Northern Ireland) Order 2009. For the purposes of this presentation, I will refer to that draft legislation as the 2009 Order. The paper also highlights issues that arose in the Northern Ireland Office’s (NIO) consultation paper entitled ‘Regulating the Private Security Industry in Northern Ireland’, which was published in 2006.

3. Before I begin, I should apologise for a mistake in the research paper. There is a quotation on the first page that should read “paramilitary organisations”, not “parliamentary organisations”. *[Laughter.]* I will highlight the key points of the research paper and move on to more detailed background on the NIO’s 2006 consultation paper.

4. The draft Private Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 will pave the way for the extension to Northern Ireland of the remit of the Security Industry Authority (SIA). The proposal to extend the SIA’s remit to Northern Ireland was put out for public consultation by the Northern

Ireland Office in 2006. The proposal was made in the light of the lack of regulation of the security industry in Northern Ireland, and evidence of paramilitary activity in the industry, which was presented in the fifth report of the Independent Monitoring Commission.

5. The results of the 2006 consultation report showed overwhelming support for regulation of the security industry in Northern Ireland. The current interim arrangements under the Justice and Security (Northern Ireland) Act 2007 require persons offering or providing security guard services for reward to obtain a licence from the Secretary of State. After December 2009, it will be illegal to engage in licensable conduct in Northern Ireland without a licence from the SIA. In addition, the 2009 Order will amend the Private Security Industry Act 2001 to take account of sports grounds, in that certain security operatives at sports grounds, under specific circumstances, are exempt from regulation by the SIA. That will keep Northern Ireland in line with the situation in the rest of the UK.

6. The key responsibilities of the SIA are to reduce criminality in the security industry and to improve security standards. The key dates for the extension of the SIA’s remit to Northern Ireland are highlighted in my research paper. Training leading to the availability of SIA-approved qualifications was to have been completed by January 2009. The SIA was to begin accepting licence applications to its approved contractor scheme in May 2009. After December 2009, it will be illegal to work in certain designated roles in Northern Ireland without a licence.

7. At the time of the consultation period in 2006, the private security industry in Northern Ireland was regulated under the provisions of schedule 13 to the Terrorism Act 2000, which was later repealed in July 2007 by the Justice and Security (Northern Ireland) Act 2007. The consultation report stated that schedule 13 to the Terrorism Act 2000 was not working effectively, and that it had no set criteria for the vetting of convictions or professional standards.

8. In its 2006 report, the NIO considered options for the future regulation of the industry. The “do nothing” option was not adopted because the Government felt that self-regulation would not achieve the objective that they had set out. The report also stated that a scheme established four years ago by the

Federation of the Retail Licensed Trade (FRLT) and the British Institute of Innkeeping provided training and registration for door supervisors, but that local councils did not seem interested in the scheme, and opted out of using it. The Government also felt that the “do nothing” option would leave the industry open to criminal activity.

9. The second option was to create a permanent version of schedule 13 to the Terrorism Act 2000. However, the Government felt that schedule 13 did not address best-practice issues, nor did it specify levels of training or provide for criminal conviction checks.

10. Option 3, which was eventually adopted, was to extend the remit of SIA to Northern Ireland. The Government stated that they thought that that option was the most efficient and cost-effective form of regulation for Northern Ireland. Individuals would require only one licence, no matter where they are in the UK. The Government felt that that would create consistency throughout the UK security industry.

11. Option 4 was to establish a dedicated Northern Ireland agency. The Government stated that that option would be unlikely to deliver the same benefits as an established agency, and they felt that it would have a negative impact on the industry, due to higher regulation costs. The report estimated that, for a Northern Ireland agency to be self-financing, it would have to charge up to £600. Even were it to charge the bare minimum, that would still be £300 to £400, and it would have to ignore the issue of enforcement and focus purely on the process of licensing. The Government felt that that would result in a less effective system in the UK and Ireland, and that it would also involve disproportionate costs.

12. The conclusion of the report stated that the most effective choice would be to extend the remit of SIA to Northern Ireland on the basis that that would ensure equal standards across the UK, and reduce offending by the security industry, which would therefore result in greater public confidence in that industry. As well as the overwhelming support for the extension of SIA’s remit, the report called for a joined-up approach between SIA and the Private Security Authority, which is the Irish regulatory body.

13. In my submission, I identify two reports that provide analysis of the success of SIA. The National Audit Office report outlined how the system was initially unable to cope with the level of applications, which led to an additional cost of £1 million. However, it went on to state that the approved-contractor scheme was a success, and it identified strategic aims to deal with future challenges.

14. I also referred to a research project that is commencing this year in the department of politics at Sheffield University. Two professors are analysing the role of SIA in regulating the private security industry. Their report is due in 2010, and will address the two crucial issues: to what extent is security provision being brought into the orbit of state authority, and, most importantly, does SIA have the capability to regulate the vast number of security suppliers operating in Britain? Perhaps the Committee should keep an eye on that research, which will be useful when considering how SIA will operate in Northern Ireland when its remit is extended.

15. That concludes my presentation. If members wish to ask questions, I will be happy to receive them.

16. **The Chairperson:** Thank you for the presentation.

17. **Mr McCartney:** Thank you, Ruth. Did you carry out any research on what will happen when policing and justice powers are transferred?

18. **Ms Barry:** No. The submission was intended to represent a brief overview of the reports.

19. **The Chairperson:** Thank you, Ruth.

20. We now move to an evidence session with representatives of the Northern Ireland Office. Members have received a copy of the NIO submission. I invite Mr Steven McCourt, head of the operations branch of the policing and operations support division, and Mr Gavin Greenlees from the operations branch, to come forward. I invite Mr McCourt to make a brief opening statement lasting approximately 10 minutes, and to speak about the relationship between the earlier consultation and the present proposals.

21. **Mr Steven McCourt (Northern Ireland Office):** Thank you very much for the opportunity to outline the legislative amendments and proposals in the draft legislation. I will briefly explain the rationale behind a number of provisions. Your researcher has quite comprehensively covered most of those. I will explain why the Government felt it necessary to regulate the private security industry in Northern Ireland and what objectives they wanted to achieve from regulation. I will also outline the options for regulation that were considered, the views of people involved in the industry, and why, ultimately, the Minister decided that SIA regulation was the most appropriate route for Northern Ireland.

22. Thereafter, I will briefly outline the legislative changes that are needed to extend the legislation to the industry here.

23. Why regulate? Many of us rely on the private security sector for our personal safety or for the security of our property, business or possessions. Given the absence of a thorough and permanent regulatory framework in Northern Ireland in recent years, this important growing industry has been infiltrated by some unscrupulous operators who seek to exploit the potential for profit for personal gain or for the gain of paramilitary organisations. It was, and continues to be, a Government priority to tackle that problem. Regulation can help to improve quality of service in sensitive areas, and the trust, confidence and safety of the public are paramount.

24. For those main reasons, it was decided in 2006 to undertake a thorough review of the private security industry in Northern Ireland and to explore the various options for regulation. Furthermore, we hoped that the public, the PSNI, others who avail themselves of security services and the industry itself would welcome a robust regulatory framework. The Government's objectives for regulation are to: increase public safety and confidence in the industry; drive organised crime out of the security industry; raise standards of competence and professionalism for security companies; protect and recognise companies and individuals who operate to high standards; specify minimum levels of training for security personnel; and make the industry an attractive career choice.

25. As your researcher said, there are four options, the first of which is the "do nothing" option. Government said that they did not think that self-regulation would achieve the benefits that an appropriate licensing scheme would achieve. That action risks leaving the industry open to criminal activity. It would become inviting to those who wish to exploit it and, potentially, become a target industry for extortion. In turn, that could create a risk for public safety. Given that regulation exists in the rest of the UK and Ireland, failure to regulate in Northern Ireland would send the signal that it is a safe haven for bad practice.

26. The second option was the permanent extension of NIO's interim scheme. The scheme was always intended to operate for an interim period and to focus on the greatest threats to public safety. It was specifically designed to prevent proscribed organisations from profiting from the private security industry. The extension of that scheme would not address best-practice issues such as specifying levels of training for individuals who work in the industry and would not have required a criminal conviction check that could render an applicant unsuitable for the job. Those are the particular areas that the Government wanted the regulations to improve. The Minister firmly believed that making the current

scheme permanent without addressing the inherent shortcomings would have been an ineffective solution.

27. The third option was to extend the SIA's remit to Northern Ireland. As members are aware, the rest of the UK will adopt a system of regulation, which the SIA will govern, that is similar or identical to that in England, Scotland and Wales. The SIA's function is to raise standards in the private security industry by licensing the individuals who work therein. In turn, that helps to improve the industry's image so that the public and the wider business world have a much clearer understanding of how the industry is regulated and who is entitled to work in it. They achieve that regulation by applying criteria such as minimum levels of competency and by carrying out identity and criminal record checks on all applicants. That information is assessed according to the defined standards, and applications for a licence are granted or refused on that basis. It is an offence for someone who works in a licensable sector to operate without an SIA licence or to supply unlicensed security operatives. Conviction carries robust penalties.

28. The final option was to establish a dedicated NI agency to govern and set standards for the industry. It was envisaged that that agency would have a role similar to the SIA in the rest of the UK and would be responsible for issuing licences and enforcing standards. If such an agency was established to govern the industry, it would have been expected to be self-financing. Therefore, the licence costs would have to bear not only the administrative cost of regulation, but the cost of enforcement.

29. The industry in Northern Ireland is smaller. Therefore, in order to deliver the same benefits as the SIA, the cost of a licence from a Northern Ireland agency would be disproportionately high — around £600 — and the associated bureaucracy would be disproportionately large. Moreover, establishing a dedicated agency in Northern Ireland would take a significant amount of time. That would leave the industry without regulation for a long period, which would be unacceptable.

30. Costs could be reduced by making the dedicated local agency responsible for licensing, but removing enforcement powers. That would have resulted in a less effective system than in the rest of the UK and Ireland. Because of that, combined with the disproportionate cost to the industry, the individual and the Government, the Minister dismissed that option.

31. As I mentioned earlier, those options were published for an eight-week consultation period

in August 2006. That public consultation gave the Government the opportunity to receive the views of interested parties and consider them before deciding on the best method of future regulation in Northern Ireland. All the security companies that responded to the consultation were strongly in favour of the proposal to extend the SIA's remit to Northern Ireland. That view was shared by councils, the PSNI and the British Security Industry Association. The consultation process showed that there was an overwhelming desire in the industry for regulation and that it should be in line with best practice in the rest of the UK. Communication during any future implementation project was assessed to be of great importance to the industry. Consequently, the SIA has put on a series of roadshows, and a substantial marketing campaign is ongoing.

32. The Government decided that, on balance, the extension of the SIA's remit to Northern Ireland was the right way forward, particularly with regard to the objectives that were set at the outset. That option was considered the most efficient, cost-effective and satisfactory form of regulation for Northern Ireland. By recognising the SIA as the regulatory body, standards are automatically made equal throughout the UK, increasing Northern Ireland's ability to operate and compete on a national level. That will have a positive knock-on effect on the economy in Northern Ireland.

33. In the main, individuals require only one licence, no matter where they are or where they work in the UK. The further achievement of consistency throughout the UK in the number of licences, licence conditions and training standards will also improve the standard of the service provided by companies, and, importantly, will protect the reputable operators, driving out those who have been acting with little regard for the law. That will further protect those who avail themselves of private security services.

34. The SIA's multi-agency approach to compliance and enforcement activity sits well with the methods that are currently used in Northern Ireland, and has great potential for success in tackling the problem of organised crime in the industry. The extension to Northern Ireland of the SIA's remit will achieve the objectives that the Government identified when they reviewed the industry. The Minister firmly believes that such a course of action will result in a major improvement of the current arrangements. The Minister has agreed that the SIA would open for business and begin accepting applications for licences in May 2009. From December 2009, it will become illegal to engage in licensable conduct without a licence.

35. A number of legislative changes will be required in preparation for the extension to Northern Ireland of the SIA's remit. The vast majority are technical changes, which simply extend existing legislation to Northern Ireland. The legislation that is currently under consideration is a case in point. The first amendment relates to an exemption in section 4 of the Private Security Industry Act 2001 for those working in certain sports grounds from any requirement to hold a licence under the 2001 Act. That exemption does not apply in Northern Ireland because it is defined by reference to the Safety of Sports Grounds Act 1975 and the Fire Safety and Places of Sport Act 1987, neither of which extends to Northern Ireland.

36. The amendment will extend that exemption to Northern Ireland by adding references to the Safety of Sports Grounds (Northern Ireland) Order 2006, which is the equivalent Northern Ireland legislation. That exemption from licensing applies to in-house employees when carrying out duties in connection with their employer's use of a certified sports ground or certified sports stand for purposes for which its safety certificate has effect. Employees of a visiting team to such premises are also exempt provided that the visiting team has a certified sports ground or stand.

37. The second amendment relates to schedule 2 to the 2001 Act, which lists the various activities that can be designated under the Act. The designation triggers the requirement to hold an SIA licence. One of the activities listed at schedule 2(8) is the work of door supervisors or other security personnel in licensed premises. The definition of licensed premises in schedule 2(8) currently refers only to licensed premises in England, Wales and Scotland. The amendment will add references to licensed premises in Northern Ireland, ensuring that those working in Northern Ireland are also covered by the Act.

38. I hope that that introduction has provided members with a useful summation of the rationale and background to the extension to Northern Ireland of the regulatory remit of the SIA. Mr Greenlees and I will be happy to provide clarification if we can.

39. **The Chairperson:** Thank you. You said that the consultation took place, and you talked about the security industry. Retailers are more probably more affected than the security industry. What was their response to the consultation?

40. **Mr McCourt:** We have provided an outline of responses from the security sector. As I have indicated, in the main they are positive about the introduction of the SIA in Northern Ireland.

41. **The Chairperson:** I appreciate that that is the security companies' response. I am thinking about people who will actually incur charges, such as licensed traders. I am curious about the points that they raised during the consultation and about whether they were in favour.

42. **Mr McCourt:** We do not have any information about specific responses from individuals from each sector. In general, the licence is personal and transportable — it allows an employee to engage in activity across a number of areas, both in Northern Ireland and throughout GB. In that context, therefore, although the licence and the training that it involves will have costs, the Minister believes that it is important that the legislation be introduced in Northern Ireland in order to bring it into line with the rest of the UK and so that it can enjoy the benefits that are accrued elsewhere.

43. **Dr Farry:** Welcome, gentlemen. I support the broad thrust of the legislation. I want to ask a few questions, however. The consultation was conducted in 2006. Why did NIO not, at that stage, bring forward a full Order to extend the SIA to Northern Ireland, as opposed to the interim arrangements that were brought about by the 2007 Act? Why is that being done in two steps in Northern Ireland, rather than in 2006 through the route that you now advocate?

44. **Mr Gavin Greenlees (Northern Ireland Office):** In 2006, the Terrorism Act 2000 was due to be repealed. Therefore, prior to implementation of SIA, which was the route that the Minister decided on, there would have been a period during which there was no regulation of the industry. Therefore, the interim scheme was brought in as a stopgap measure while full consideration of what was required for the industry was taken forward. Therefore, we had an interim scheme so that the industry was not left without any regulation while that consideration was taking place.

45. **Dr Farry:** When you talk about the Terrorism Act 2000 being repealed, do you mean part 7 of the Act, as opposed to the Act as a whole?

46. **Mr Greenlees:** Yes.

47. **Dr Farry:** Can you clarify whether we depend on part 7 being dealt with in order for any measures to go forward?

48. **Mr Greenlees:** Part 7 is being repealed. The interim scheme was brought about under the Justice and Security (Northern Ireland) Act 2007. After that, Northern Ireland will come under the remit of the Private Security Industry Act 2001. Therefore,

we have gone through a transitional period and are potentially at the start of new arrangements.

49. **Dr Farry:** Therefore, you are not conducting a repeat consultation? Is it the case that you will use the 2006 consultation to inform legislative action in 2009?

50. **Mr Greenlees:** The consultation in 2006 was a broad exercise on the overall policy of implementing a new regulatory scheme for the industry in Northern Ireland. We believe that policy decisions that were taken at that stage are still valid. The scheme is a practical and technical outworking of that decision.

51. **Dr Farry:** Am I right in saying that it is a little bit unusual to have a consultation three years before action will be taken?

52. **Mr Greenlees:** I understand that point.

53. **Dr Farry:** I appreciate all of the arguments for a standardised approach throughout the United Kingdom. However, is there a case for higher standards in Northern Ireland, given its particular affliction by paramilitary activity and organised crime? Would a common, UK-wide standard and approach be sufficiently flexible and adept to pick up the subtleties of Northern Ireland's situation?

54. **Mr McCourt:** The UK-wide scheme is robust with regard to assessment of criminal-convictions criteria for individuals and background checks in respect of mental-health considerations, for example. The Minister believes that the GB arrangements are robust, which is why he wants to move ahead and introduce them in Northern Ireland. They are much more robust than the interim scheme that is currently in place.

55. **Dr Farry:** We have received a statement from the IMC that there is direct evidence of paramilitary involvement in Northern Ireland's security industry — or there has been in the past. When that new regime is in operation, how will it be able to tell definitively whether there is a paramilitary or organised-crime agenda behind any organisation when the people who apply for a licence do not have a conviction?

The people involved may not have a conviction, but there may still be an organised crime agenda behind what is being put forward. Is this foolproof, or is it merely a partial measure?

56. **Mr McCourt:** The SIA does not take only criminal conviction criteria into consideration. It also takes consideration of additional information that may be forwarded to it by the Police Service of Northern Ireland. Its remit is much broader than purely criminal conviction criteria and assessment.

57. **Dr Farry:** Take the example of broader uses of intelligence leading to a conviction. What protection does the state have against a legal challenge from a company that takes out a judicial review against the SIA for not granting it a licence based upon intelligence that has not been formally tested in public?

58. **Mr McCourt:** That is one of the issues concerning protections and intelligence that the Minister is considering. It is an aspect that still has to be bottomed out in the movement between an interim scheme and the general SIA.

59. **Dr Farry:** It is a key problem that must be addressed.

60. **Mr McFarland:** Most of the respondents were quite positive, but there seems to be a suggestion that not everyone was positive. Who was not positive, and why were those people not positive?

61. **Mr McCourt:** That information has been provided to the Committee. A number of organisations were not in favour of the regulations that were set out. One such organisation was the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO), which disagreed with the extent in the SIA's remit to which Northern Ireland is the best option. Other organisations were also of that opinion.

62. **The Chairperson:** The Federation of the Retail Licensed Trade will be presenting to us later. I am just reading that it is another of the organisations that is not positive. Perhaps you will still be here when the FRLT makes its presentation.

63. **Mr McCourt:** I was just about to speak about the FRLT, and we will certainly stay for its presentation.

64. **Mr McFarland:** I could have read the answer that you have just given. I would like a potted version of what you see as the problems that we will face as we receive evidence. You have been working on the matter for several years, so what else have you spotted? You must have an inkling of what the Committee is about to uncover and encounter. We are seeking your help and your assessment of where the potential difficulties lie, because we will be examining the issue over a fairly short period of three to four weeks. Will you provide the Committee with a potted version of where the problems lie?

65. **Mr McCourt:** The main issue concerns criminal conviction criteria and, in particular, how conflict convictions will be treated under the SIA. Other groups will probably provide evidence in that regard as well. That issue is not contained in the remit of the Order that is before the Committee, but there are concerns about how it will be dealt with under the SIA.

66. **Mr McFarland:** We are essentially talking about the Eames/Bradley group, because it raised the issue of how past convictions should be dealt with. The issue has been ongoing on a number of fronts for some time.

67. **Mr McCourt:** In general, the SIA takes account of the relevance, seriousness, recency and disposal of each offence. It will consider all the offences on a person's criminal record, regardless of whether those offences may have been considered spent in other circumstances. That has particular relevance to the issue of whether the SIA's process takes account of the Good Friday Agreement. Some people in the industry and, indeed, some of the wider bodies that are represented have general concerns about that.

68. The SIA has taken legal advice on the matter, and it believes that the approach that it is taking of considering offences is consistent with the judgement of Justice Kerr and the guidance to employers that was issued by the Office of the First Minister and deputy First Minister (OFMDFM) about conflict-related convictions that predate the Good Friday Agreement. There was growing concern that everyone who had a criminal conflict-related conviction would automatically be penalised by the SIA. The SIA met with ex-prisoners' groups and others to try to outline its specific approach about licensing in Northern Ireland. The Minister is keen that public safety must remain the priority, but there is no desire to unfairly penalise anyone who is genuinely rehabilitated. Therefore, we tried to address the industry's concerns about that.

69. **Mr Greenlees:** Members will be aware from the summary of responses that Sport NI raised concerns that account may not be taken of the particular consideration about Northern Ireland's sports grounds. I want to touch on this issue because it specifically relates to the legislation that we are taking forward and that the Committee must consider. Sport Northern Ireland's concern was that the form of regulation would be unreasonably burdensome on small sports grounds. Therefore, I thought that it may be useful if I laid out what areas are not required to have a licence in the SIA regulation for sports grounds, because that illustrates quite well how far the regulation extends. The Minister met representatives of Sport Northern Ireland, and he felt that he had addressed those concerns. It is useful to air that matter.

70. There will be no need for an SIA licence at a sporting event provided in-house security staff are used, that is, that they are not contracted staff and the venue is not licensed to sell alcohol or to provide

regulated entertainment. There is no requirement for an SIA licence at a sporting event providing that staff are volunteers within the HMRC guidelines, which means that they cannot receive payment or benefits in kind, but they can receive reasonable expenses.

71. The final issue is pertinent, because it is the legislative change that we are attempting to make through the Order, and that is to ensure that appropriate reference is made through the safety of sports grounds regulations in Northern Ireland. Making correct reference to that legislation means that if a certified sports ground or stand is covered by a safety certificate, there is no requirement for any in-house staff to have a licence, even if they work in an area with a licence to sell alcohol or to provide entertainment. That is an important distinction, because, if a safety of sports grounds certificate does not apply, people who work in a sports ground where there is a licence to sell alcohol and provide entertainment are expected to have a licence. The overall outworking of that is to reduce the burden on sports. The Minister felt that he addressed those concerns that were raised as part of the consultation.

72. **Mr McFarland:** Can it be confirmed that the Minister is minded to have the SIA follow Mr Justice Kerr's advice, that employers should, where possible, ignore terrorist-related convictions? I do not know how that fits in with increasing public safety and confidence in the industry if the issue of former convictions is overlooked. The whole essence of the issue was that we were stopping people who were involved with paramilitarism from getting involved, or continuing to be involved, in the industry?

73. **Mr McCourt:** That is not what we are saying.

74. **Mr McFarland:** I thought that you said that the Minister was minded to have the SIA follow Mr Justice Kerr's advice to employers. Is that not what you said?

75. **Mr McCourt:** The SIA said that its approach is consistent with Mr Kerr's judgement. The SIA is not the employer, but it will undertake the risk assessment process when considering an individual's convictions, whether it is post-1998 or pre-1998. A risk assessment will be made as would be the case for anyone with a similar conviction. The SIA is saying that its process is consistent with the guidance that has been issued, and that it will take the Good Friday Agreement into consideration.

76. It does not necessarily follow that people with so-called Good Friday Agreement convictions will get a licence. It will be a matter of a risk assessment of the relevance, seriousness and recency of the offence. The

SIA will assess those people for licences as it would do for any other application.

77. **Mr McFarland:** You will have been following the issue of public confidence over the devolution of policing and justice. Do you not think that this is an area that may cause a few excited moments when it goes public?

78. **Mr McCourt:** The Minister has taken the decision that the process will be consistent with that in the rest of the UK. The SIA believes that its approach is consistent with what is being applied in GB.

79. **Mr McFarland:** Has no one spotted that this is apt to cause an unholy row when it is deployed over here?

80. **Mr McCourt:** The process that is being applied with criminal convictions is consistent with the rest of the UK in regards to risk. Irrespective of whether someone has a Good Friday Agreement conviction, the process of assessing risk will be the same. Therefore, the SIA will treat each case on an individual basis.

81. **The Chairperson:** So, there are no clear guidelines on whether having a spent conviction —

82. **Mr McFarland:** As I understand it, the advice is that where possible, the conviction should be ignored. Mr Justice Kerr's take on it was that employers should be encouraged not to stop people getting jobs if they had a terrorist conviction. We know about the sensitivity that exists on the issue of terrorist convictions, and if we are now saying that the SIA is going to use the advice from Mr Justice Kerr that unless it is absolutely clear that there is still involvement in terrorism, the conviction should be ignored, my guess is that it will cause a bit of a row here.

83. **The Chairperson:** I can see where you are coming from.

84. **Mr McCourt:** The issue is that the conviction will not be ignored. The SIA will make an assessment on risk based on relevance, seriousness and recency of any offence. Therefore, no criminal conviction will be ignored by the SIA.

85. **Mr McCartney:** When you were considering the options, particularly option 4, was any consideration given to the transfer of policing and justice powers and the establishment of a justice Department?

86. **Mr McCourt:** I hesitated to answer because not having been involved with that issue back in 2006, I do not know what level of thought was given to the scale of the future devolution of policing and justice. However, the general issue with the devolution of policing and justice will be that the overall policy of the SIA will be devolved to any new Department

of justice. Therefore, if the Home Secretary or a Department of justice wishes to change any aspects of the criteria, or to amend any of the licensable areas, they can do so. The Home Secretary will consult on other areas of the Act. The devolution of policing and justice powers is taken into consideration. However, I do not know whether it was a factor for consideration back in 2006.

87. **Mr McCartney:** In light of recent developments, was the options paper brought back in to suggest that we should reconsider whether the dedicated agency here is a better idea now than it was in 2006?

88. **Mr McCourt:** I will check on the consultation process and come back to the Committee on that question.

89. **Mr McCartney:** Mr Justice Kerr ruled that people with Good Friday Agreement, or conflict-related convictions, as they are called, could be awarded PSV licences. Until then, people with a political conviction could not get one. What will be the role of the SIA in future vetting procedures? Will it make the decision or will it seek guidance on from a new justice Department? Will the SIA decide the importance or relevance of a political conviction as opposed to seeking guidance from OFMDFM?

90. **Mr McCourt:** The SIA will be responsible for deciding on each licence application.

91. **Mr McQuillan:** How realistic is it that the legislation will be in place by the December deadline? I ask that in the context of having to have the training completed and up and running in the current economic climate as well as asking people for £250 for the training.

92. **Mr McCourt:** The Minister is conscious of the overall cost to applicants for the licence. Training providers have been up and running since early January, and the SIA has been open for business since May. The final aspects of the legislation, including the Order that the Committee is considering, will be introduced in mid-November. The SIA and the NIO have held numerous roadshows and met numerous groups — user groups as well as those involved with each sector — and have made it abundantly clear that, with regard to the voluntary licensing process, employers and employees should move ahead as soon as possible and apply for their training and licences in time.

93. Approximately 1,300 licences have been issued to individuals who have a personal address in Northern Ireland. The SIA believes that there are just over 9,000 people involved with the sector in general.

94. **The Chairperson:** That leaves approximately 7,700 people who need a licence between now and the end of December. Is that achievable?

95. **Mr McCourt:** The SIA certainly believes that it is achievable.

96. **Mr Greenlees:** The timeline is consistent with the implementation projects that were rolled out in England and Wales, and, with the lessons learned, in Scotland. The expectation is for a slow uptake at the start with a peak towards the deadline.

97. **The Chairperson:** Surely it is not a case of a slow uptake. If we are setting a December deadline for people to have a licence, there is no slow period for the uptake. We have given people a six-month window in which to apply for and to be in receipt of a licence before they can legally operate in licensed premises.

98. **Mr Greenlees:** The uptake has been slow at the start in other implementation projects. However, the uptake increased towards the end of the six-month period. In this project, fewer people need to be licensed than in the English, Welsh and Scottish models. Therefore, there is not an expectation that the uptake will affect SIA operations or it meeting its deadlines. The SIA has assured us that it is resourced to operate this programme on the model that it expects, namely, that there will be a big increase in applications nearer the end of the six-month period.

99. **The Chairperson:** You are referring to a model that is already in place. Surely, this is absolutely new to Northern Ireland. I can understand how such a model would suit Wales and other devolved regions. It is new to Northern Ireland, and we are still talking about a six-month window in which to turn it round. Do you really believe, with that number of applications, that that will be achievable?

100. **Mr Greenlees:** The SIA, using its experience in other jurisdictions, believes that it is possible.

101. **Ms Ní Chuilín:** What are the current mechanisms for clearing and vetting door supervisors in particular?

102. **Mr McCourt:** Do you mean with regard to the application process to the SIA?

103. **Ms Ní Chuilín:** I mean even before they approach the SIA. What has been the practice in local government? How are such people vetted before their licences are granted? If the SIA cannot meet its targets for December 2009, are we to assume that a couple of thousand people could potentially be without employment?

104. **Mr McCourt:** Obviously, Ministers would have to make a decision and the SIA would have to review its whole process for the project. If there was a significant difficulty with delivering the project in the given timescale, the Minister would take account of that; there is not a blinkered approach. From the advice that the SIA has given us, and from its consultations with individual employers and governing bodies, it believes that it will be able to adhere to the timeline for the application process.

105. **Ms Ní Chuilín:** Out of curiosity, how many people who work in the industry have been convicted for extortion and exploitation?

106. **Mr McCourt:** I do not have the figures, but I will get back to the Committee with them.

107. **Ms Ní Chuilín:** That would be helpful to the Committee.

108. **Mr McFarland:** The Assembly Research and Library Service briefing paper states that the Audit Office was quite rough on the SIA in its 2008 report and that the SIA incurred additional costs of more than £1 million. The Audit Office report identified the large number of licences to be renewed in 2008-09 as a future challenge. Presumably, that refers to renewals in GB. If we are adding hundreds more applications from here, will the SIA be up to the extra work? How can we find out whether the December target will be met? The SIA is having trouble doing its job in England and Wales, and it has a lot of licences to renew in 2008-09. The report also identifies the new sectors and regions to be regulated as a future challenge, which, I presume, does not refer just to Northern Ireland.

109. **Mr McCourt:** To reassure the Committee on the SIA's ability to deliver, particularly with regard to the criticisms in the Audit Office report, I will ask the SIA to outline the current process and how it is delivering against its targets. I will get back to the Committee with that, because it will provide a snapshot in time, and it would be appropriate to find out how the SIA is processing its current applications. I believe that it is meeting its targets.

110. **Ms Ní Chuilín:** I am keen to get that information. The awarding of an entertainment licence is dependent on the applicant having door staff who are properly trained and licensed. Therefore, there is not just potential for current door supervisors to be out of work, there is also potential for entertainment licences and perhaps even liquor licences not to be awarded. In the current economic climate, that should be taken into account. I am in favour of regulation, but

it seems vague as to whether the December deadline will be met.

111. **Dr Farry:** I declare an interest as a member of North Down Borough Council, which has had a licensing scheme for door supervisors for a number of years, as has Belfast City Council. However, the licensing of door supervisors is patchy across Northern Ireland.

112. With regard to the speed of the licensing process, have lessons been learned from the situation at AccessNI, where, until this year, there was a lot of frustration with the long delays in the processing of applications? I appreciate that that may be a slightly different concept, but a similar methodology may be used.

113. **Mr McCourt:** The short answer is yes. The SIA and AccessNI have been modelling the application process and how to deal with the throughput that they envisage. AccessNI has been able to assure the SIA about meeting the necessary deadlines.

114. **Dr Farry:** My other point is about people with convictions. A distinction can be made between looking to the past and drawing a conclusion that because someone was involved with a paramilitary organisation, they are linked to a wide network of organised crime. That may or may not be the case. Some subtlety in the process is required with regard to that. I emphasise the need to look to the future rather than the past, and we should be careful not to generalise.

115. **Mr Greenlees:** Although the SIA is not bound by the rehabilitation of offenders legislation, its work is consistent with the spirit of it. The intention is that people who can prove that they have been genuinely rehabilitated will not necessarily be excluded from licensing. However, there is an onus on them to prove that through an appropriate reference from an employer or someone who is not personally related who can verify that that person has moved forward.

116. **Mr McCartney:** What does "genuinely rehabilitated" mean?

117. **Mr Greenlees:** The SIA will take into consideration information provided to them that, for instance, shows that someone who has been involved in the security industry for a period of time, despite their past conviction, has performed well and has contributed to the industry.

118. **Mr McCartney:** Is the SIA not being asked to make a value judgement? Justice Kerr made a judgement in 1998, for whatever reason, that people with political convictions should be involved in a

process of moving on. Therefore, people should be allowed to move on without a requirement for “genuine rehabilitation”. That is merely subjective.

119. **Ms Ní Chuilín:** It is too arbitrary.

120. **Mr McCourt:** It is a matter of risk. A process is set out in the ‘Get Licensed’ booklet. That is a comprehensive booklet that allows people to make assessments against the criteria involved. It is a matter for risk-assessment. As Gavin outlined, the SIA will take mitigating circumstances into consideration in determining risk in the round.

121. **Dr Farry:** I do not have exactly the same point of view as Raymond in that I accept that there has to be a risk assessment, though we should be careful not to generalise. To a certain extent, any risk assessment is subjective. If someone feels that they have been unfairly turned down, can he or she appeal the decision to find out how the risk assessment had been carried out?

122. **Mr McCourt:** Yes. They can appeal to a magistrate’s court.

123. **Mr McCartney:** There were 100 court cases about PSV licences, and each person was successfully granted an application for a licence. Justice Kerr then made his ruling, and there now exists a broader definition of who can get a PSV licence. This is the same scenario. We will end up with 300 or 400 court cases before we come to a conclusion, and we will then have an audit report telling us that it was a waste of public money.

124. **Dr Farry:** I am trying to find the middle ground —

125. **The Chairperson:** The Committee Clerk and I discussed the issue, and we may be able to call on the Minister to provide a presentation. We could put those questions to the Minister, as opposed to questioning these guys who are not in a position to give answers. I do not want to get stuck on this issue for the rest of the afternoon. With great respect, we need the Minister here to answer that question.

126. Let us consider the PSNI submission, and leave it at that. One of its points is that it may be necessary to continue with some form of vetting that takes into account more than the criminal convictions, for example, suspected involvement with criminal or paramilitary activity. That is even wider than what we are talking about. Let us park this discussion for the present.

127. **Dr Farry:** That refers to police intelligence.

128. **The Chairperson:** We would do best to park the discussion for now, and if we get an opportunity to discuss it with the Minister, we can press him for an answer. We can let Steven off the hook this time round. I thank Steven and Gavin for coming today and for their presentation. I am grateful to them for indicating that they will stay for the presentation by the Federation of the Retail Licensed Trade.

Are you happy to stay with a view to responding to any further questions that may arise from the next evidence session?

129. **Mr Greenlees:** Yes.

130. **Mr McCourt:** Yes.

131. **The Chairperson:** We will now hear evidence from the Federation of the Retail Licensed Trade. Members have been supplied with a copy of that organisation’s written submission. I welcome Colin Neill, who is chief executive of the Federation of the Retail Licensed Trade in Northern Ireland, Philip McCann, who is a publican, and Stephen Magorrian, who is managing director of Botanic Inns Ltd. Thank you for coming along today. You have approximately 10 minutes to give a presentation, and then members will take the opportunity to ask questions.

132. **Mr Colin Neill (Federation of the Retail Licensed Trade):** Thank you for giving us the opportunity to share our views on this matter. I will present a brief overview of the federation and the industry, so that you know where we are coming from.

133. The Federation of the Retail Licensed Trade is the only industry body of its kind in Northern Ireland. It is a membership organisation representing about 70% of the industry, the majority of which are publicans; however, we also represent a number of off-licences and hotels.

134. Our industry employs some 34,000 people and contributes more than £1 billion to the Northern Ireland economy each year. The retail licensed trade is now seen more as a career than a dead-end job. For example, one in eight staff of Botanic Inns becomes a manager; therefore, the industry is progressive.

135. We are also a major part of the tourism product in Northern Ireland. Tourist Board figures show that more than 70% of all tourists visit a pub and that more than 60% of them eat in one.

136. As an organisation, we also lead the agenda for the responsible retailing of alcohol. We are driving that agenda forward to ensure that we exceed any regulations, so that the misuse of alcohol becomes an item on the agenda, rather than being the agenda itself.

Therefore, by highlighting that, the industry brings other benefits.

137. I put on record our full support for the Minister's aims and objectives in respect of the requirement for door supervisors to be regulated. The draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 will put that regulation in place; however, that also raises some issues for the industry. The NIO dropped the ball in respect of that legislation. Even though licensing laws are different here, the NIO used an English model, hence the catch-up process. We have a major issue with that catch-up process, and woven through that are concerns about the cost, the time frame and the Good Friday Agreement, all of which have implications for the industry.

138. In respect of the time frame, we heard earlier that the training window has been open and will remain open for about six months. The problem is that the NIO dropped the ball on the deadline for compliance with the legislation. Given the economic climate, the federation has encouraged employers in the industry to get their staff trained; however, an awful lot of them are reluctant to do so in case the legislation is not put in place.

139. We have been told that the legislation will be put in place by September. If I had a crystal ball, I would know which Government would be in Westminster in September, what process this Committee decides on, and whether the 60-day time frame exists to allow the proposals to become legislation. A number of people are holding back to see whether that happens. If the legislation is put in place, a large chunk of the industry will then try to be trained and licensed by 1 December 2009. Given that we did not create the anomaly, the compliance deadline should be shifted.

140. We have had numerous conversations, one of which was as recently as last Friday, with the SIA about the issue of the Good Friday Agreement ramifications. Our issue is that in order to carry out the process and apply for a licence, door supervisors must first be trained at a cost of around £250. In most cases, employers are footing that bill because door supervisors work only one or two nights a week, so it is simply not financially viable for them to pay for their training and licensing.

141. Employers are picking up the tab for their employees' time off work, training and, in many instances, licences. Given the cost of the training, the employers of the people affected by the Good Friday Agreement will have to foot that bill for the

process before they know whether those employees' applications have been accepted. Therefore, money will be spent before anyone knows the outcome.

142. I spoke to SIA on 29 May 2009, and, from that conversation, it seems that it has moved its position slightly. Up until now, it would not give any information, other than that it did have a process, but it has now said that it will take mitigating factors into consideration. However, that will lengthen the process, because when a doorperson does their training and applies for a licence, there is a six to eight-week turnaround. Once we start getting into mitigating circumstances, each case will be judged on its merits, adding weeks to that time frame. Indeed, I have yet to obtain a definitive explanation from SIA of what that time frame will be.

143. Belfast City Council estimates that around 1,000 people employed in door supervision are affected by the Good Friday Agreement. If the introduction of the new scheme is delayed until September, because most of them are employed in-house rather than in the security industries, there will be a much longer process for those employees to obtain a licence. Therefore, it will be somewhat of a double whammy.

144. On the issue of the Good Friday Agreement, SIA has told us that some employees will be able to proceed on the basis of mitigating circumstances, but that some will not. The political world is obviously nothing to do with the federation, but we envisage losing good staff, because they will not even enter that process. In the current climate of unemployment, that is unacceptable.

145. The federation also has an issue with non-front-line licences. As the Committee has heard, door personnel must pay £250 for a 30-day training course and £245 for their licences. Additionally, owners of bars, because they employ security staff, also must obtain non-front-line licences at a cost of £245. Therefore, in a family-run pub with four directors, each of those directors will have to hold such a licence, meaning that that pub will have to pay out £1,000 for those directors to tell a doorman once a week to guard the door and carry out general housekeeping. In total, those licences could perhaps add £3,000 to the overall running costs of a small public house. That figure scales up drastically when one examines a business such as Botanic Inns. I will now hand over to Stephen to speak about the cost factors in that business.

146. **Mr Stephen Magorrian (Federation of the Retail Licensed Trade):** As Colin has said, we have

spoken to the SIA about the legislation. We have also been in negotiation with a chosen training provider about how we can move forward to meet the deadline.

147. Botanic Inns has 14 on-trade outlets, directly employing 40 security personnel, and a further 40 security personnel are indirectly employed through an agency. The total cost to the company of putting our security staff through training could be £34,500. That figure includes 30 hours of training for 40 people at £12 per person per hour, a payment to the training provider of approximately £250 per person and a further outlay of £10,000 for our licence. Furthermore, the company must also pay for the provision of non-front-line licences to personnel such as myself, some staff at head office and other staff across the outlets. We are still trying to determine how that will operate in the outlets and whether one person will be in charge of all door staff or if that responsibility will fall to the general manager. However, because Botanic Inns has 14 outlets, that could mean that a further 30 people would need to be licensed in that manner, with a further cost of £25,800. Moreover, the agency that provides the other half of our security personnel will obviously incur similar costs, and no doubt it will pass those costs to us through an increased rate per hour. That could equate to a further £34,000, resulting in Botanic Inns having to pay £95,000 in total to comply with the system.

148. The cost element is difficult to swallow, but I am also concerned about staff retention. Some of the 40 security personnel whom we directly employ have been with us for years. Indeed, one person who works for us one night a week, and who has been with us for 14 years, has spoken to me to ask whether it is really worth his while going through the training and obtaining the licence. Therefore, we could potentially lose a very experienced employee. Many of the other staff members are in similar positions: they have been with us for so long, they know us, and they know their jobs and what is expected of them. All of those employees have already registered through the Belfast scheme and have done various courses in the past, yet no consideration is given to that, with consideration only being given to training that has been completed in the last three years. Therefore, it is a concern that we could lose good people from the industry because that could push us down a more agency-orientated route. That would mean that we would not have the same level of ownership over the individual, which would make me worry about the quality of door service that we would be able to provide.

149. I am also worried about our foreign workers. A couple of guys who work with us are from Poland, and the time that it will take to vet them worries me.

I am concerned about the cost and the time. I need all 80 of those guys to be working from 1 December for Christmas, but I may not be able to have that. One of the questions raised by the door staff is: "Will you make us redundant?" I said, "No — it just means you are gone." They ask about all the years of work that they have done for me. I have had to tell them that it is not my problem and if they cannot get licences, it is their problem.

150. December is the worst time of all for these measures to go live. I hear that there are 6,000 applications to be processed. I have had to vet people in the past and it has taken me a long time through the Belfast City Council scheme. Even when I have phoned police officers whom I know to call in favours, it is still a slow process. In short, we are worried and we have our reservations about the timelines.

151. **Mr Neill:** There is a significant cost at a time when our industry is under severe pressure.

152. You are all aware of the news that comes out of England continuously about five pubs closing each day. In April, we surveyed our members and the situation is no different here. Some 35% have had to lay off staff; 24% expect to lay off staff; and 4% expect to close. I could give further statistics.

153. Our industry is in crisis. Low-cost alcohol renders the industry unprofitable. Over 60% of alcohol is consumed at home or on the street. We sell only a small part of it. Lots of other costs are associated with running an on-trade business that are not incurred in off-sales. We attended a Committee the other day to give evidence on a proposal to double the cost of the entertainment licence. Sky TV may seem simple and cheap. Most people think it costs us £40 or £50, but for a bar in Belfast it costs in the region of a couple of thousand pounds per month. There is a wide range of hidden costs that keeps increasing. We support the process of improving quality and making sure that doormen are regulated. All of the hidden costs, such as non-front-line licences, are unreasonable. The time frame is undeliverable.

154. **The Chairperson:** I concur with your remarks, and I share your concerns, although I am not directly connected with your trade. That is why I asked the question at the outset about those who were not satisfied. I am not surprised that you are not impressed by the whole notion of licensing. Steven and Gavin gave their presentation, and the responses could be analysed: those who have agreed are mostly connected with the security industries, and I am not surprised that they are in favour of it. The police and the councils will be in favour. It is good management for

a council. It makes it easier for a council to monitor what is happening. However, from your point of view, this is another burden.

155. I attended the presentation that you gave to another Committee. Most of us concur that the proposals require more expenditure from the point of view of your business. However, all of us welcome some form of regulation in our own private way. When one does the sums, as Stephen has shown, there is a financial burden on each of the businesses involved.

156. **Mr McCartney:** In Stephen's presentation, he said that he had 40 direct employees and 40 agency staff. Is that pattern typical of the industry? Typically, are 50% of doormen directly employed and 50% hired?

157. **Mr Philip McCann (Federation of the Retail Licensed Trade):** Not really. I come from the smaller end of the business. I am an owner-operator. Typically, there would be only one or two people, and generally the owner would employ them. Not only that, the federation has pushed hard for control of the employment of door staff. We pushed very hard in Belfast. We have a scheme that is up and going, and has been working fairly well. We have the concerns that off-front-line as well as non-front-line staff will become an important issue. Every director and virtually every manager will have to get a licence, even though he does no more than make a cursory judgement as to whether to let in individuals. We will be breaking the law if we do not have licences.

158. It gets a bit silly after a while. As Colin said, the industry is deteriorating, unfortunately, and we are doing our best to increase turnover. However, another large amount of money will have to continually go towards meeting the requirements of SIA licensing.

159. There are other major issues. For instance, small pubs generally employ local people, usually on a part-time basis. With respect, the SIA will be paying a certain amount of lip service to the Good Friday Agreement. We attended a presentation last month at which representatives of the SIA said that it will make decisions about licensing criteria. However, Colin attended a meeting last Friday at which the SIA representatives said that they might make licensing decisions but would still set the criteria. We do not have that luxury. If we are going to employ someone, we have to totally forget about the ramifications of the Good Friday Agreement. We will go ahead and spend money on training people because we have to. All of a sudden, we may get a summons, and we have to go back to the magistrate's court, etc. The result is that there is nobody on staff to look after the door of the premises. If the legislation goes through, we will

be totally lost, because from September, people like us will jump in and try to get staff trained, but there is no time to do so. There is no common sense in an approach that says that 6,000 people will be licensed, especially if at least 1,000 of those are to be reviewed and then reviewed again.

160. **Mr McCartney:** I will follow up on the point that you made about the Good Friday Agreement. I declare an interest as the chairperson of Coiste na nIarchimí, an organisation that works with republican ex-prisoners. Your experiences with people who have been convicted of conflict-related offences seems to have been good. Alan McFarland said that there might be matters of wider public interest, which is fine, but your experience to date has been that the people that you have employed are capable of doing the job.

161. **Mr Neill:** We have not asked our members individually about their experiences of employing such people as door staff, but the fact that they are employed, are doing the job and are being retained would suggest that our members are happy with them.

162. **The Chairperson:** I do not want to play devil's advocate, but that it not necessarily so. There are other factors, but I do not want to go too deeply into that. There is concern on both sides of the community that some of those guys, who, although they have spent records, are probably still involved. I do not know whether Alan McFarland shares that view or not. I do not believe that simply because you have not had an indication to the contrary, your members do not have a problem with those people. I just wanted to put that on record.

163. **Mr Neill:** Our argument is apolitical. It is not about who should be employed in those roles; it is about the implications of not adopting a clear and concise process that leaves the whole thing awash. We do not want to have to pay for someone's training because we cannot decide whether they pass the required standard, only to get knocked back when applying for a licence, or go into a process that disappears into a black hole for six months. We will leave the political side of things to you and the members, Chairperson.

164. **The Chairperson:** It is probably better to leave it at that.

165. **Dr Farry:** You are welcome, gentlemen. We should recognise the responsible role that is played by your organisation in the drinks industry and in the creation of a safer environment in which people can enjoy a drink. I presume that, in general, you accept the principle of licensing of all staff at some stage. The

question is how to achieve that and how long it will take. Is that your message today?

166. **Mr Neill:** Yes. We welcome and support fully the regulation of doormen and improving the quality of their training. We support the Minister's aims and objectives, but the costs will be incredible. The legislation is obviously designed for the security industry because security companies are run by one director. However, all of a sudden, all four directors of a family-run pub have to have a licence to employ one doorman. That legislation, on top of the ramifications of the Good Friday Agreement and the time frames that it will require, will result in the industry being bogged down in a quagmire. The legislation was parachuted in without looking at the detail, and we are trying to patch it up, leaving us with a two-month window in which to train everyone. With the best will in the world, I can understand why people do not want to spend the money up front.

167. **Dr Farry:** My next question will lead into another one; you will see the link. I am trying to be as frank as possible with the Committee and without naming any businesses — accepting that most businesses are well run — what are the examples of bad practice in your industry, even among pub owners who are not members of your association?

168. What is your view on the problems in your industry with unregulated door staff?

169. **Mr Neill:** It is about quality of service. We want to move away from the image of a bouncer as an aggressive individual in a Puffa jacket. Our doormen are concierges, who are quality meeter and greeters. Their role is to find customers a chair, ensure that everyone behaves properly and identify and mediate with people who are acting inappropriately. I agree that some people in the industry are untrained; that is why we are keen to ensure that everyone is trained and qualified. We must consider how to do that and the cost.

170. **Dr Farry:** How does the industry respond to complaints about door staff, particularly those about the excessive or inappropriate use of force, or use of force in itself?

171. **Mr Magorrian:** I will give an example from Botanic Inns. In my several years as managing director of Botanic Inns, we have employed hundreds of door staff through agencies and through direct employment. I have never had an issue with a paramilitary link. Since 2003, I have laid off about four people for using excessive force. The rule is that anyone who uses excessive force is sacked. I have only done that four times in five years.

172. As Colin said, a grumpy doorman who does not welcome customers appropriately can render all marketing and other work a waste of time. All of our guys are told to deal with any issue by walking and talking. That is it; there is no need for excessive force. If a doorman is attacked, he should call the police, rather than deal with the matter himself. That is the trade's general approach. A few years ago, it was highly publicised in Bangor that all publicans met and decided to use the same company to employ doormen. All doormen in Bangor now work for Eventsec and were all briefed about what is expected from a doorman, and so on.

173. **Dr Farry:** Your door staff are only allowed to use force in self-defence; is that right? The other common complaint is that door staff are selective about who they let into a venue. Are such complaints policed?

174. **Mr Magorrian:** It is awkward to set door policy, because the intention is to remove conflict from the doors. Although a door policy should be black and white, when it is applied in that manner, it can sometimes be unfair. Some of our doors carry messages that sportswear is forbidden. Some people turn up in sportswear and shoes that are probably more expensive than my suit. However, the door policy forbids sportswear. That can cause concern. However, the policy is written down, and the doorman can tell the customer that it is not his fault or decision, but rather that of management. A door policy is intended to remove the confrontation from the door and allow a doorman to blame a faceless person inside the venue, which, ultimately, is me.

175. **Dr Farry:** The NIO representatives may want to respond to the matter. The logic of what you are saying means, perhaps, a phasing in of this system. The Northern Ireland Office should, perhaps, conduct a risk assessment across the range of different security activities in Northern Ireland. In some respects, in the public imagination, the real problem with an unregulated system in a wider sense is the potential risk of extortion from paramilitaries or organised crime in the security industry.

176. The problems with an unregulated system in the pubs and clubs are more about people not being properly trained on health and safety or using force inappropriately. Some people may reach the conclusion that that is a less risky situation than the status quo in other systems. Therefore, are you open to a phasing in of the commencement of the scheme across different sectors of the security industry in Northern Ireland?

177. **Mr Neill:** The UK-wide, one-size-fits-all approach has been mentioned umpteen times. I like to think that we are different, and I am proud that we have many examples of best practice here. This is a one-size-fits-all policy for the security industry, and we have a different sector that has different criteria. If we have four directors, it is because we are a family-owned business, not because we run a security company. We welcome the quality-improvement aims and objectives. If measures were brought in within a proper timescale and people can get processed, the issue around the Good Friday Agreement is taken out of our hands and made into something whereby we know where people stand before we incur the cost.

178. The federation is leading an industry-wide approach to revise the current code of practice on the misuse and mis-promotion of alcohol, and to rename that as a quality standard, because it will not just take into account the selling of alcohol, but will also take account of entertainment licenses. We are also creating an independent complaints panel, which we will have nothing to do with, to adjudicate that. We really want to drive the highest standard that we can.

179. **Mr Magorrian:** To use my example, I have 80 employees, either agency or directly recruited staff. They are all registered through the Belfast City Council scheme, so they have completed the training courses and got their licence. I will not employ an agency person unless he has a licence, because that is one of the conditions of our entertainment licences.

180. Potentially, on 1 December, the Belfast licence will become null and void, and door supervisors will have to have an SIA licence. I would have preferred to have seen a situation whereby, until such times as mitigating circumstances are appealed and go to the courts, or wherever they might go, that those people who have already been recognised and passed as fit by Belfast City Council would be allowed to continue working. That is currently not the case. The validity of the licences ceases on 1 December, and if for whatever reason we have not completed this process, I cannot employ those people.

181. **Mr P McCann:** To augment some of what Stephen was saying, and to answer some of your questions from the perspective of small city and small country pubs; it is very important to them. In a local community, the door staff's role is that of "meet and greet", because they are welcoming people in. They also know, through experience, which people have been causing trouble, and so on. Having local input and local people is very important.

182. In some ways, this scheme takes that choice out of their hands; they will have to start going to agencies to find staff. Agencies are not always in the same city or the same town. It becomes a bigger problem, not an easier problem, to solve.

183. **Ms Ní Chuilín:** I totally support the idea of regulation. That is the way to go. If any door person, regardless of where they come from, is involved in criminality, the PSNI needs to deal with it. That is the bottom line.

184. I have an issue with an English firm that is getting a lot of money from here. I think that we should be able to benefit from that. In councils, the beneficiaries are the ratepayers, because when we buy services in, it brings the rates down, and it seems to be more local.

185. If, in December 2009, people who have currently got a Belfast City Council or North Down door supervisor's licence are not successful in having that licence continued, we are in danger of causing unfair disadvantage through our work on this Ad Hoc Committee. That is my concern, and I would like it to be recorded. I know that regulation has to occur — who and how we regulate is still up for discussion, regardless of what the NIO says.

186. **The Chairperson:** That is something that we can discuss if we get the opportunity to have the Minister appear before the Committee.

187. **Ms Ní Chuilín:** I think that we need to consider —

188. **The Chairperson:** There is probably a slight difference of opinion there, because the research paper highlighted that there was a cost implication to option 4, which was a system dedicated to Northern Ireland.

189. **Ms Ní Chuilín:** I do not know where the evidence for that comes from.

190. **The Chairperson:** We have got our own researcher, and I trust that that has been explored.

191. **Ms Ní Chuilín:** I am not questioning Ruth Barry's work; I just think that that is quite high, considering what is currently happening. There is a much lower cost if a person applies for a door supervisor's licence through a local council. That is something that we need to talk to the Minister about when he is here. We need to consider that issue, and if it means gathering evidence in preparation for the Minister appearing here, we need to look at interim arrangements for people whose licence expires beyond 2009.

192. I would like some legal advice on that matter, and that is why I am asking the Committee to bring

evidence forward, because I am not happy that people who are in employment and who have been employed for a number of years will find themselves unemployed if they cannot have their licence continued, albeit through another route, such as through AccessNI. I would like some clarity on that.

193. **The Chairperson:** The problem is that the matter is reserved. Therefore, we are consultees with no direct power to make changes. We can only suggest improvements.

194. **The Committee Clerk:** The Committee is not in a position to make changes, although it can influence them. The Northern Ireland Act 1998 requires that the Committee is asked for its views.

195. **Ms Ní Chuilín:** That is fine. Other members can speak for themselves. I will not rubber-stamp something just because it is the protocol to do so.

196. **The Chairperson:** Do not think that I will simply rubber-stamp it either; I will not. I had a conversation with the Committee Clerk —

197. **Ms Ní Chuilín:** I do not think that anyone here is a nodding dog. If Committee meetings are the place to raise an opinion —

198. **The Chairperson:** Let me finish. Questions have arisen. That is why we need the opportunity to raise our concerns with the Minister. If he listens, he will, in turn, make changes. The NIO has asked us to consider the matter and to give feedback. We must go through that process and put questions to the Minister. If we still have concerns, we must put together a paper to say that we are not satisfied with the outcome. We must go through the entire process.

199. **Ms Ní Chuilín:** That is fine. To repeat myself again, I ask only that in preparation for our meeting with the Minister, we get legal advice about the question that I asked at the start, which is whether we will, by giving advice, raising questions, or even by simply not flagging that up, place people who have a licence at an unfair advantage after December 2009? Even though we have no real influence on making the decision as such, can we get legal advice? Is it sufficient to say simply that we have concerns? That is all that I ask.

200. **The Chairperson:** Are members content that we put those questions?

201. **Mr McFarland:** It is worth doing. My guess is that there is no legal issue, because all that we are doing is mulling over the matter and giving our advice. It is a matter for the NIO. If it were a devolved

matter, upon which the Committee could decide, there would be issues about what we say.

202. There are a number of clear concerns. The Audit Office said that the SIA is already overwrought. The concern is about whether the SIA can cope with the extra workload, especially given the tight timescale. That is a major issue.

203. **Ms Ní Chuilín:** We are aware of that.

204. **Mr McFarland:** The idea that hordes of people will be out of a job and that the industry will be left, if you like, with the bare minimum number of doormen by December because it cannot cope with the system is, clearly, daft. There is a suggestion that someone could nominate one person out of four directors to be in charge of security. That would ease the problem. Provided that everyone plays the game, it may be a way out of it.

205. There is a major issue with the business of the Good Friday Agreement and intelligence assessments. MI5 is now responsible for anti-terrorist intelligence. Are we now saying that MI5 will feed into the SIA? Are we suggesting that the SIA goes to MI5 about every single potential doorman to check whether he is active, inactive or may have been active? Some major issues are unclear. It would be useful to tease those out with the Minister.

206. **Mr McQuillan:** Stephen partially answered my question. Coleraine Borough Council was one of the first councils to consider the issue of licences for door supervisors. Is there any way to marry the two in some way, so that anyone who has completed Coleraine Borough Council's course, for example, could go forward a couple of steps in the SIA training?

207. **Mr Neill:** We are the body that provided training for Coleraine Borough Council, among others. Someone who has a current licence is exempt from the first part of training. In real terms, that saves approximately £30 because of all of the costs that go with that. Therefore, there is small recognition.

208. We argue that a security-industry regulation will not fit a different type of pub industry. In England, lots of pubs are owned by large organisations. We have a different structure. The majority of our pubs are owned by owner operators.

209. A common-sense approach is required. For example, if a band plays in a venue, under health and safety requirements, a doorman must walk the band to the stage. That could involve three minutes of his working night; it is not his primary job. However, to walk the band to the stage, he needs a close protection licence, which involves four weeks' training. No

common sense is applied to the issue; at least, I cannot find any.

210. **Mr P McCann:** Our organisation has established a reasonably strong teaching structure for all the doormen, and we have not had too many problems with that. The SIA training structure is not as relevant as ours. For example, it covers training for cash in transit, which is unnecessary for a door supervisor.

211. **Mr Neill:** We provide the training for the courses that are offered by most councils. That training covers first aid, whereas the SIA training does not. However, I was told on Friday that the intention is to make it available as part of the SIA training in a couple of years. An extension of the remit of the SIA would dumb down the quality of training and drive the costs through the roof.

212. **Mr Magorrian:** I listened to Ms Barry's presentation, which highlighted that a Northern Ireland system had been investigated. Such a system could have been established cheaply. Pubs cannot survive today without entertainment licences. If one of the criteria for being granted an entertainment licence was that all the doormen have to have completed door-supervision training, it would have tightened the system up. If those doormen then had to produce the badge to show that they had completed that training every time the venue was visited by council officials — council officials visit at least one of our premises every week — that would have been a much cheaper and better way of establishing a system of regulation. The training that we provide is better than that provided by the SIA, and the regulation could have been established within Northern Ireland.

213. **The Chairperson:** Thank you for your presentation. We are fast running out of time. If members are content, I will call back the representatives from the NIO for a couple of brief questions, so that they can address the points that have been raised.

214. **Mr Neill:** For members' information, we are meeting the Minister on 22 of June 2009 to drive home our arguments. Thank you.

215. **The Chairperson:** I am conscious that some members will have to leave soon. Mr McCourt, you were present to hear the presentation given by the Federation of the Retail Licensed Trade. I must admit, I was taken by the fact that, if a business has four or more directors, each of those will need a licence. I think that all members here are frustrated at some of the points that were made in that presentation. Will some of those points be taken on board? Perhaps we could have a further discussion in the next couple of weeks about the points that have been raised.

216. **Mr McCourt:** As Colin said, representatives from the Federation of the Retail Licensed Trade are meeting the Minister on 22 June 2009 to make their views known. We will certainly provide feedback to the Minister about the points that have been raised today by all concerned. Obviously, if the Committee wishes to call the Minister to give evidence, he will be aware of the issues that have been raised.

217. **The Chairperson:** It is beneficial, for the purposes of the Hansard report, that it is on the record that you have taken into consideration the points that have been raised. For expediency we will move on at this stage, unless any members have any pressing issues that they wish to raise.

218. **Mr McFarland:** We could go on with discussions, because there are a number of issues that need to be addressed, but it will be quite useful to have an initial discussion with the Minister.

219. **Ms Ni Chuilín:** For clarity, is this the last time that the NIO officials will be in front of the Committee?

220. **The Chairperson:** Not necessarily. We have a timetable, but there may be an opportunity to fix another meeting with the NIO officials.

221. **Ms Ní Chuilín:** That is fair enough.

222. **Mr McQuillan:** Is it possible for the Committee to get an update from the Federation of the Retail Licensed Trade on its meeting with the Minister?

223. **The Chairperson:** We can request that.

224. I advise members that public notice, giving details of the legislation, was placed in the 'Belfast Telegraph', 'the Irish News' and the 'News Letter' on Friday 29 May 2009.

225. **The Committee Clerk:** On foot of the information from the previous consultation, we have gone out to the consultees to check their interest. Many of them have not responded, which is part of our difficulty in planning for next week. As members pointed out to the witnesses, we do not have a great deal of time.

226. I have produced a programme, though it does contain a number of blank spaces. It includes the evidence session of today's meeting and a possible evidence session for the same time next week. I suggest that, given that the Committee has agreed to call the Minister, we aim for Monday 8 June 2009. Fundamental issues are to be discussed. If all sorts of concerns emerge from the responses, a number of sessions may be required, which may mean having

two sessions a week. If Committee members are happy with that, we will try to work with it.

227. **Mr McFarland:** Chairperson, Belfast City Council and North Down Borough Council have schemes. Perhaps, at some stage, you could talk to their representatives. Stephen, are you involved in that?

228. **Dr Farry:** I am a member of North Down Borough Council.

229. **Mr McFarland:** Are you familiar with the Belfast scheme?

230. **Ms Ní Chuilín:** I am familiar with it, although I am not a member of Belfast City Council.

231. **Mr McFarland:** It would be useful to speak to those two hands-on organisations in case we have missed anything.

232. **The Committee Clerk:** We have contacted other councils, but not those two, so I shall follow that up.

233. **The Chairperson:** Are members content that we do that?

Members indicated assent.

234. **Dr Farry:** I appreciate that there are a range of views among Committee members on the issue of convictions. Perhaps we should encourage representatives from NIACRO to attend to try to guide us on that issue.

235. **The Committee Clerk:** We contacted NIACRO, but it has not got back to us yet.

236. **The Chairperson:** If no one has any other matters to raise, that simply leaves me to advise members that the next meeting will take place on Monday 8 June at 1.00 pm.

8 June 2009

Members present for all or part of the proceedings:

Mr Raymond McCartney (Deputy Chairperson)
 Mr Cathal Boylan
 Mr Thomas Burns
 Ms Carál Ní Chuilín
 Mr John Dallat
 Mr Alan McFarland
 Mr David McNarry

Witnesses:

Mr David Brown	} North Down Borough Council
Mr James Cunningham	} Belfast City Council
Mr Brian Magill	
Mr Trevor Martin	
Mr Pat Conway	} Northern Ireland Association for the Care and Resettlement of Offenders
Ms Anne Reid	
Ms Heather Reid	

237. **The Deputy Chairperson (Mr McCartney):** Good afternoon. I welcome Mr David Brown from North Down Borough Council. The Committee looks forward to hearing your evidence. The normal format is for witnesses to make a brief opening statement, after which members will ask appropriate questions.

238. **Mr David Brown (North Down Borough Council):** Thank you very much for inviting me along. I was asked to come to speak about our door registration scheme that has been running for a number of years and then to talk about how we feel about the new legislation. I hope that that is correct.

239. A door registration scheme has been in operation in north Down since 2002. It was one of the initiatives that we came up with to deal with the problems of the night-time economy in north Down. Our scheme is largely run by a management committee, which is made up of councillors, the local licensing trade and the police. The committee will agree who will be registered in the borough.

240. Our scheme covers all door supervisors who are employed at premises that are licensed for entertainment and where alcohol can be purchased. Door supervisors must undergo a criminal record check and approved training before they can be

registered with us. That registration is valid for three years. The licence application fee is £30. When we receive an application for registration, we seek the criminal record check and forward that to the police, who will examine it and comment on it. They use the guidance when reviewing the registration application.

241. If the police are happy with the application, we will issue the registration. If there is a problem with the criminal record check, the police will report that to the committee. The committee will then either decide that there is not really an issue with the application, or it will refer it to a selection panel, which will be made up of three members of the committee. It will meet the door supervisor to discuss the criminal record check and will discuss whether there were any mitigating circumstances as to why the offence was committed. The panel will then make its decision, after which, the door supervisor, if still unhappy, has a right of appeal to another subcommittee.

242. If there is no training available at the time at which a door supervisor makes an application, he will be allowed to work for six months in the borough, providing that the criminal record checks are passed and that he works under the supervision of another registered door supervisor. We also have selection panels to consider offences in cases in which door supervisors breach the code of conduct that they have to have signed up to. We have the power to withdraw the registration or include certain conditions to which they must adhere.

243. Our scheme has worked quite well. There has obviously been a problem of enforcing the registration because of the number of door supervisors and establishments that exist. We also face various other problems because some door supervisors do not want their identities to be known to others. At the beginning, they refused to even have their photographs displayed on their IDs, but each door supervisor is now required to wear a photographic ID with a registration number.

244. **The Deputy Chairperson:** Your submission includes your views on the proposed legislation, but perhaps you could run us through them.

245. **Mr D Brown:** We had a meeting with our door supervisors and the Security Industry Authority (SIA) a number of weeks ago. It was a rather

contentions meeting as there was a lot of bad feeling from the door supervisors about the implementation and, specifically, the cost of the new scheme. A considerable cost is being levied on people who work only part time. The £265 cost of the registration scheme plus training is a considerable amount of money for someone who may work only two nights a week. We generally support the introduction of some sort of registration scheme, and we have found the scheme that we have run in the borough to be useful. If the new legislation takes effect in December, we will probably withdraw our scheme at that time.

246. Our other issue with the new registration scheme is its monitoring and enforcement. At present, our council would be unhappy about the proposals for council officers to enforce the new legislation through a condition in the entertainment licence.

247. Our door registration scheme is set up mainly to deal with the night-time economy. Our biggest concern is that if door supervisors are unable to afford to be registered because it is much too expensive, it could lead to a lack of available door supervisors to work in the borough.

248. We are also concerned about the criminal record checks. There seems to be no allowance for offenders who may be out on licence after the Good Friday Agreement. That issue has not yet arisen in north Down. Surprisingly, few people who have committed serious offences have gone through our registration process. However, we envisage that it could be a problem in the future, particularly in many other boroughs.

249. A number of pubs in our borough do not employ door supervisors. The new legislation may require them to register, at additional expense, to deal with the security on their premises, and that will cause them problems.

250. **Ms Ní Chuilín:** David, thanks for your presentation. You said that you welcomed registration and a degree of regulation in north Down. However, you expressed a concern that, because of the cost and other barriers involved, the legislation may lead to fewer licensed premises being registered or employing registered door supervisors. You said that, if that is the case, it may affect the entertainment licence. Will you expand on that?

251. **Mr D Brown:** At present, no legislation requires a bar to employ door supervisors. Bars decide whether to do so based on a risk assessment. If bars employ door supervisors, however, they must be registered. In future, door supervisors will also be required to be registered with the SIA. Our concern

is that the high cost of that registration would mean that some of the door supervisors who currently work in bars may not take out the additional registration and, therefore, not be available to work. Therefore, potentially, fewer staff will be available.

252. **Ms Ní Chuilín:** How long has North Down Borough Council operated the door supervisory scheme?

253. **Mr D Brown:** The scheme has been in operation since 2002.

254. **Ms Ní Chuilín:** Has the council had any major issues with the registration of door supervisors who qualified for release under the Good Friday Agreement?

255. **Mr D Brown:** We have had no such issues so far. Two people applied to register who had committed serious offences, and one was turned down, but that had nothing to do with the Good Friday Agreement. The other had committed a serious assault, but as seven years had elapsed, we were able to register him under our scheme. The registration scheme in north Down has not been affected by the impact of releases under the Good Friday Agreement. I am, however, aware that my colleagues from other boroughs are much more concerned about that issue than we are.

256. **Ms Ní Chuilín:** How many people who qualified for release under the Good Friday Agreement have gone through the council's registration scheme?

257. **Mr D Brown:** I could not answer that.

258. **Ms Ní Chuilín:** Would it be scores of people?

259. **Mr D Brown:** I do not think that anyone who has been registered in our scheme was released under the Good Friday Agreement. I have seen all the criminal records of applicants, and I do not think that that is a problem that has affected us. I have, though, spoken to colleagues in other boroughs where the problem will have a much bigger impact.

260. **Mr McNarry:** David, you are welcome. Your submission is easy for a simple guy like me to follow, which I appreciate.

261. Your submission states that premises are not required to employ door supervisors. Do premises that have not employed door supervisors have a history of problems?

262. **Mr D Brown:** One bar in north Down refuses to employ door supervisors as its owners feel that it does not need to and that it gives the wrong impression. The issue was the possibility that supervisors at adjoining premises would have to give support to that bar. Therefore, although the bar in

question is reducing its costs, it could be relying on the services of supervisors at nearby premises.

263. **Mr McNarry:** Is that bar under any compulsion to employ door supervisors? Have the police spoken to them about the situation?

264. **Mr D Brown:** We have spoken to the owners of that bar, as have the police, and said that they should employ door supervisors. However, if a bar owner or owners have carried out a risk assessment of their premises and decided that they do not need to employ door supervisors, we cannot force them to do so.

265. **Mr McNarry:** In north Down and in my own constituency, massive Loyal Order events take place and Ulster-Scots events are becoming popular. Do you see anything in the legislation that may impact on such community events?

266. **Mr D Brown:** I have not really given that much consideration, but I do not think that the legislation will impact on those types of events. However, it will possibly impact on some council events that require liquor licences, because staff working at them will have to be approved by the SIA.

267. **Mr McNarry:** Are you thinking of an occasional licence?

268. **Mr D Brown:** Yes.

269. **Mr McNarry:** Your submission states that:

“If the PSNI are satisfied with the applicant they will advise the Council and the applicant will be registered”.

270. Are any complications caused because of the time that it takes the PSNI to present information on applicants? I ask that because I see that there is a caveat whereby a door supervisor can be temporarily registered for six months.

271. **Mr D Brown:** We have a very good working relationship with the PSNI, so that has not been a problem. A sergeant has been assigned to do that work for us.

272. **Mr McNarry:** I see that the PSNI is on the scheme’s management committee. When you established the registration scheme, did the PSNI have a remit to guide you? Do you have a working paper or a remit to work through with the PSNI, or has the process evolved?

273. **Mr D Brown:** I have copies of the committee’s remit, which lays out the responsibilities of all committee members. I can provide members with those copies. The original committee was established at a time when there was severe night-time disorder in north Down. It was one initiative that we put in place

to try to improve the impression of the town and to assure people that it is a safe place to visit. It took us quite a while to do that.

274. A number of schemes are running in Northern Ireland, and I understand that you will be speaking to representatives of another council today. Some schemes provide training and do not involve any security clearances. Other schemes have training and a type of criminal record check. Our scheme is possibly the only one that involves training and a full police criminal record check. The scheme is run by the committee, and the police have always been supportive of it.

275. **Mr McNarry:** You are fortunate that you have not had any major concerns about someone’s criminality.

276. **Mr D Brown:** We have not had any concerns about people who were released under the Good Friday Agreement.

277. **Mr McFarland:** Thank you for your presentation. There are quite a number of part-time door supervisors, and they may not be able to afford to pay for the training. However, with cover still required, presumably more and more premises will pay large security companies to provide door supervisors. If door supervisors have worked on premises for some years, but cannot afford to pay for the training, surely logic dictates that the owners of the premises should pay.

278. We heard last week that it is likely that a lot of owners or companies would pay for training rather than individuals. The only difficulty that we identified was of a lone pub out in the countryside, where old Jimmy has worked for years as a doorman on Friday and Saturday nights. A problem arises if neither that lone pub nor old Jimmy can afford the training. Have you any thoughts on that?

279. **Mr D Brown:** Our borough is possibly unique in that none of our door supervisors are provided by large companies; they are tied to individual premises. However, we are concerned about what will happen in the future. Licensees are experiencing financially tough times, and they may not have the money to support their door supervisors like they did in the past.

280. In north Down, we have always strived to support our door supervisors with training. We had the necessary resources and finances to pay for the previous training session that was run. We are seeking ways to make that possible in north Down in the future, but the £265 registration fee is a large amount of money for people who work only one or two nights a week.

281. **Mr McFarland:** We heard last week that Mr Justice Kerr's ruling on PSV licences has resulted in a number of organisations, particularly Government organisations, feeling obliged to ignore the convictions of those who were released under the Good Friday Agreement. My understanding is that the First Minister and deputy First Minister issued an edict in 2007 that those convictions were to be ignored by the Civil Service. I was not aware of that myself, but I since heard it from another source. It may be worth considering that issue and being able to examine those regulations or instructions.

282. That matter did not come up in last week's meeting, but it arose somewhere else. One of the Departments was running a check on someone, and it was unhappy about a conviction. However, the Department was told to get on with it and that that conviction could not prevent the person being employed. If that was the case, our whole Government is bound by the edict, as is, presumably, the SIA. However, what is the legal basis of that?

283. My original understanding was that the Secretary of State simply issued advice, whereby employers were encouraged to ignore terrorist convictions. However, if that has become part of an edict from Government, in which the First Minister and the Deputy First Minister have instructed that such convictions be ignored, we are in a situation that was not clear to most of us.

284. Do you get your clearances through Access Northern Ireland?

285. **Mr D Brown:** Yes; at the moment.

286. **Mr McFarland:** So, it is not done through the police directly.

287. **Mr D Brown:** We dealt directly with the police before AccessNI was established.

288. **Mr McFarland:** Other people who have used that service report that it takes ages. However, from what you said earlier, it seems that you have not found that.

289. **Mr D Brown:** AccessNI has very much improved. We had problems for a while as the process was taking at least three or four months, but it now takes only three or four weeks.

290. **Mr Dallat:** I am completely new to this subject. Will you describe the circumstances in 2003 that led you to set up the voluntary scheme for door supervisors? I ask that question because a similar scheme was set up in Coleraine after a number of young people lost their lives and there were court cases on murder, manslaughter and all sorts of crimes.

291. **Mr D Brown:** There was a lot of bad local press about what was happening in one of the towns. There were a lot of riots.

292. **Mr McNarry:** I heard that the rioters were all from Belfast.

293. **Ms Ní Chuilín:** Ah, stop it. *[Laughter.]*

294. **Mr D Brown:** I would not like to say where they were from. However, there was a lot of trouble.

295. **Ms Ní Chuilín:** They were not from my constituency anyway. I can assure you of that.

296. **Mr McNarry:** How do you know?

297. **Ms Ní Chuilín:** They would not be seen dead in the place. *[Laughter.]*

298. **Mr D Brown:** The press was reporting assaults and so on nearly every week, and one person died outside a nightclub. I think that it was —

299. **Mr McNarry:** Cancel those Bairbre de Brún votes.

300. **Ms Ní Chuilín:** Yeah, right.

301. **Mr D Brown:** I think that a door supervisor had thrown somebody out and they died on the street. There were a number of incidents. Certainly, at the time, there was a very bad press about how unsafe the town was at night. We took steps to try to improve that.

302. **Mr Dallat:** You say that nightclub owners and others are experiencing hard times. I do not accept that. The money is rolling in because so many people have nothing else to do.

303. Do you accept that nightclub owners and others should make a fair contribution to ensuring that the type of occurrence that you just described does not happen outside their venues?

304. **Mr D Brown:** I would be very much of that opinion. They have a responsibility to do all that they can and to pay for it.

305. **Mr Dallat:** I am sure that north Down is not the only place to have had a bad press. I know from enquiries that in Portrush at times it costs between £70,000 and £100,000 for police to manage the situation, which is grossly unfair to our hard-pressed taxpayers and ratepayers.

306. **Mr D Brown:** The economy of the borough has suffered badly from the Good Friday Agreement, because people now go to Belfast. That is a problem for Bangor in particular. Certainly, the door supervisor scheme has gone a long way to improve the borough. We are going in the right direction.

307. **Ms Ní Chuilín:** I know of parts of Belfast that were rough, again, not in my constituency, David. As a result of a good door supervisory scheme, the levels of policing dropped because they were not needed as much. That scheme has worked. I am not sure that that is the case across the whole city, but I know that when the doors are run well, particularly in the areas of training and health and safety, the police tell us that they do not need to go into those parts of the city as much. I agree with John that most people argue that there should be regulation, but not at the expense of disqualifying or putting people out of jobs or putting businesses at stake.

308. A contribution should be made. Your scheme costs £30 for applicants to gain registration, in comparison to £250, that is a marked difference. If individuals are being asked to pay for the licence, they will be unable to work. That is an issue that we need to consider.

309. **Mr McFarland:** The standard of training is one of the issues that came up last week. The training that costs £250 does not simply involve the role of a door supervisor; it includes other aspects, and there is a question over whether that level of training is necessary. However, it may be beneficial if the industry were brought up to the same standard across the UK and the Republic of Ireland, so that people could be trained for a variety of events, rather than being trained only to be a good nightclub bouncer.

310. **Mr D Brown:** There are two parts to the new training scheme. The majority of door supervisors in Northern Ireland have completed part 1, but part 2 is an additional aspect to it. Councils agreed that we will all work to unify the door registration scheme. Therefore, at least the training will be the same for most councils that are running the scheme in Northern Ireland, which is beneficial.

311. **Mr McNarry:** Will you paint a brief picture of typical door supervisors? Is it a second job for them? Is there a standard rate of pay? On average, how much do they earn? Are they a particular age?

312. **Mr D Brown:** I cannot really comment on how much they get paid, but it is enough for them to continue doing the job. I can speak only for North Down Borough Council, but most of our door supervisors remain in their jobs for a long time. There is a vast range of ages, and some of them are in their 60s. They generally work only two or three nights a week, and they certainly enjoy the job. I do not get the impression that they are all thugs or that they are ready to beat people up.

313. **Mr McNarry:** I was not suggesting that.

314. **Mr D Brown:** I am simply saying that they are normal guys.

315. **Mr McNarry:** Is there a perception that people think that they are thugs?

316. **Mr D Brown:** Yes, there is that perception, but it is unjustified. There are always bad apples, and we have removed some of those through our scheme. I hope that the SIA scheme will be able to deal with them.

317. **Mr McNarry:** That is useful. Is there any way of finding out whether there is an average rate of pay and whether those people have second jobs?

318. **Mr D Brown:** For most door supervisors in north Down, it is their second job.

319. **Mr McFarland:** Last week we heard evidence from the Federation of the Retail Licensed Trade. The problem seems to be that although some events companies are well regulated, I could set up an events company tomorrow and employ whomever I wanted, and there is absolutely nothing to stop me from doing that, apart from my local council objecting to it. Therefore, it is a mixed bag in that area.

320. The idea is to weed out organisations that are covers for criminal activity, because there is evidence that some of them have been in the past. To stop all that, the idea is to have a central agreed system. Enlightened councils such as North Down Borough Council and Belfast City Council, who went ahead with the scheme early, and have good schemes, are going to get caught up now in trying to weed out the bad areas. Therefore, there is an issue about whether part 1 is accredited already. If door supervisors have completed part 1, they get a tick in the box for that and they should not have to do it again. There is a timescale problem, because they are trying to complete it by 9 December 2009.

321. An Audit Office report has just been published which states that the SIA in England is in chaos, it has not met its targets, and it has not been able to cope, which is a problem. Therefore, if the system is transferred over here and they are being asked to train everyone here, that could be a major issue.

322. That leaves question marks over a number of areas, one of which is how severe the regulations should be for training, cost and timescale.

323. **Mr Boylan:** Thank you for your presentation. I should have said that my brother was a doorman, but he qualified because he was 6 ft 1 in and 15 and a half stone. It was not his character that helped him to get a job as a doorman, but he got paid good money working in Monaghan.

324. Does the £30 registration fee cover both parts of the training, or is the training subsidised? In response to the costs, the doormen feel that no one has listened to them. Has there been any follow on from that, or is that still the impression about the proposed regulation?

325. **Mr D Brown:** We tried to subsidise our training from other resources, such as community safety, to help them with their training. In North Down Borough Council, we are trying to help them to achieve the full training, because we believe that that is the right measure to take. Sorry, what was the second question?

326. **Mr Boylan:** It was about whether doormen have been listened to. Is there a proposal that part 1 of the training will be sufficient to qualify as a doorman, as opposed to going on and taking the full training programme?

327. **Mr D Brown:** Part 1 of the training was sufficient grounding for the needs of our scheme at that time. I am not really involved in the training aspect of the scheme, so it is probably for others to respond to that. However, it is always good to get door supervisors to make them feel better about themselves and to make them feel that it is a good occupation. That is one reason why we had the training, and we would probably have advanced that training at some stage in the next few years.

328. We met the door supervisors, and they feel that they have not been listened to. They do not believe that they had any direct input into the registration scheme, and, on account of that, we faced a lot of unhappy people. They can be quite a strong body to deal with.

329. **The Chairperson:** The impression seems to be that things are moving too fast for them. Is it fair to say that?

330. **Mr D Brown:** Things are moving too fast for them, especially as there are only six months to go. However, most of them know that it is coming, but they may not be aware of the full implications. We found that bar managers knew that it was coming, but they did not really know the impact that it would have on them and what they need to do.

331. **The Chairperson:** Thank you for your evidence. It was very informative.

332. We will now receive a presentation from the representatives of Belfast City Council. Trevor Martin is head of building control; Brian Magill is the assistant building control manager; and James Cunningham is the regulatory services manager. Thank you for attending the Committee to present evidence. The normal format is for witnesses to make

a short presentation, after which members will ask questions.

333. **Mr Trevor Martin (Belfast City Council):** I will talk for 10 minutes: five minutes on how and why we set up the Belfast scheme and five minutes on the SIA scheme and our concerns with that. Brian has 30 years' experience in licensing and manages the licensing unit. James manages the doorman registration scheme in Belfast and has lengthy experience.

334. Belfast City Council is a corporate member of the Institute of Licensing, and we have been working with it on its experience of the scheme in England and Wales. Therefore, we are up to speed with the issues that have arisen.

335. Belfast City Council has been licensing premises for approximately 40 or 50 years. That was done through old regulations regarding public entertainment licensing; it is now done under the (Local Government (Miscellaneous Provisions) Order (Northern Ireland) 1985). Approximately 400 premises in the city are licensed for entertainment. They are mostly theatres, pubs, nightclubs and some auditoriums, approximately 250 of which have doormen. Some premises are excluded, such as church halls, registered clubs and some other buildings.

336. Approximately 600 doormen are registered under the Belfast City Council scheme. The scheme was introduced in September 2002 following a successful pilot scheme. That was done for much the same reasons as the SIA's scheme: to establish professionalism and to best utilise door staff in situations such as emergency evacuation awareness and drugs awareness.

337. The scheme was introduced under entertainment licensing regulations. There was no legislation at the time under which we could introduce such a scheme, so we used a condition of the entertainment licence to introduce a provision of the entertainment licence that concerned registered doormen. In a sense, it was brought in through the back door, because there was a need for it. Accordingly, the only premises on which we have registered doormen in Belfast are those that are registered for entertainment purposes. We do not control pubs or clubs that do not have entertainment licences.

338. We worked hard with the Federation of Retail Licensed Trade, the PSNI and other groups when we were introducing the scheme to ensure that everyone was catered for; that everyone was taken on board; and nobody was disenfranchised with the system that was being brought in.

339. The system is fairly tight. It comprises 14 hours training followed by a one-hour exam. The scheme is run by accredited bodies and is accredited through the British Institute of Innkeeping (BII) and the National Open College Network Northern Ireland. We have worked with some trainers in Belfast, such as Castlereagh College and Coiste. We provide our own officers to teach those particular courses. They are accredited courses; door supervisors receive a certificate on completion of the course; and they are run by accredited bodies. Application for the scheme costs approximately £30, and those who complete it will get a badge of registration that lasts for three years.

340. One of the significant points about the scheme is that the council does not decide on the suitability of the applicant. That is because we would have to set up a fairly intensive selection mechanism. There would then have to be an appeals system in case someone failed to be accredited, which would then leave us open to a possible legal challenge. We thought that, with the number of doormen that we had, to set up the scheme would be very unwieldy and would cost a lot of money, but we did talk at length about that when the scheme was being introduced.

341. We talked with legal services, and worked it in a slightly different way, in that we rely on the licensee or the employers of the doormen to make the decision as to whether a certain person should be registered. Belfast City Council still carries out a criminal evidence check. If the person has convictions, as happens in approximately 10% to 15 % of cases, we share that information with the employer and discuss whether they want the person to be registered.

342. The system works reasonably well. We have a backstop for control in that if there is an employer who, for whatever reason, wants to employ people who the council would not deem appropriate, we can control that through entertainment licensing. We can revoke that licence or restrict it in some way. It is important to say that, because different people run their schemes in different ways, and we do not make that decision.

343. Anecdotal records show that approximately 30 people have been refused registration. We find that the employers do not want those sorts of people on the scheme anyway. It is not the case that there is a conflict between the council and the employers' decision. If people have convictions and the employers do not want them, the council tends to agree.

344. We police the scheme through performance inspections. All our staff are out at night-time, and as part of their fire safety checks of the buildings,

they also police the scheme. We will put pressure on employers if they do not have registered doormen. The PSNI told us that there has been a massive drop in assaults by doormen after the scheme was brought in, so we are fairly happy that it works reasonably well.

345. The council has discussed the national scheme generally, although there is no specific Belfast City Council opinion on it. The council generally welcomes the national scheme, as it will create a consistent approach. Unlike the current schemes, it will be enforced throughout all council areas in Northern Ireland. It is a UK-wide licence.

346. If the proposed scheme looks as though it will work, we may drop the Belfast scheme. At £30, the scheme in Belfast costs a lot of money. In a sense, it is a rate-borne activity.

347. Our concerns include how it will be enforced by the SIA, which is, essentially, a body that operates in England. We are not sure how the SIA will enforce the system in Northern Ireland. It has talked about us making it a condition of the entertainment licence, although we are very dubious about that. If I were to make it a condition of the entertainment licence, I would have to police it. In essence, I could be policing the SIA scheme through entertainment licensing conditions, and the councils would have to bear all the costs of that.

348. The SIA talked about a partnership approach with local authorities over the enforcement issue, and it has also had the same conversation with the PSNI. That is something that we may engage in. We have examples of where we have done that and where we are doing it at present. For example, the issue of energy performance certificates looks as though it could be enforced by the councils through a partnership, in which case central Government will pay the council for the enforcement. Precedents have been set, and we could do it, although we would need to talk to the SIA about it.

349. We have concerns about the introduction of the scheme and its timing. The legislation comes through in September and will be effective from December, which is not a big time frame. We have two options: either we run the Belfast scheme until the SIA's scheme is in place and all the doormen are registered, which means that a dual system would be in operation; or, if we were to drop the Belfast scheme, we could potentially have unlicensed doormen from 1 December 2009. A slightly longer transition period will be necessary, for example, April 2010 as a deadline. A lot of people have to go through the system in a short time.

350. Another option in the SIA scheme is the exemption of registered clubs. We do not have a problem with registered clubs. Belfast City Council has always maintained the option that if it needed to put registered doormen in registered clubs — such as working-men's clubs and social clubs — it could do so. The SIA does not do that, and I understand by the way that the legislation is drafted that it may be difficult for it to do so.

351. The substantial costs involved are another factor. Licences for doormen will increase from £30 to £245 under the proposed scheme. Many of the doormen are part-time and work only one or two nights a week. Event stewarding for community festivals, which involves part-time and voluntary stewards, must also be examined to see how it would work.

352. The final issue is about conflict-related offences. We understand that it is UK-wide legislation. However, the Good Friday Agreement is a factor. Initially, when the issue came up, conflicting messages were coming from the SIA, and the industry had concerns. I chaired a couple of seminars, and it was evident that that was one of the main issues. Since then, Belfast City Council has facilitated meetings between the SIA and some of the loyalist and republican groups that are affected. I am glad to say that there is now a much better understanding of the position and a real desire to move towards a situation in which we can try to resolve the issue.

353. That is how the Belfast system works. I have raised some of our concerns; however, there has been a great deal of impetus during the past few months in working with the SIA and the Northern Ireland Office to try to resolve many of those problems. Thank you for listening. We will answer any questions that members may have.

354. **Ms Ní Chuilín:** We talked to representatives from North Down Borough Council just before you came in, and it is no coincidence that they raised similar issues. You referred to the interim scheme. I am concerned that if the scheme were to end on 1 December 2009, it would displace a group of workers who would not be registered on time. You answered any queries I had on that issue, and you have also answered any queries about the Good Friday Agreement.

355. I am not asking for exact figures, but does Belfast City Council know of any incidences in which people who qualified for the scheme, and who were also ex-prisoners who qualified under the Good Friday Agreement, lost their licences as a result of any activity?

356. **Mr Martin:** That is a question that would perhaps be better asked of the SIA. My understanding from speaking to that body is that it has not refused to grant a licence to anyone in Northern Ireland.

357. **Ms Ní Chuilín:** I was thinking of the door supervisors who have gone through the council scheme. Has any door supervisor held a licence and then had that licence withdrawn?

358. **Mr Brian Magill (Belfast City Council):** No. Belfast City Council has not refused to grant anyone a licence.

359. **Mr Martin:** There have been approximately 30 refusals. However, those applicants had been convicted for crimes such as burglary and theft, and were probably people who the licensees would not want as part of the scheme. Belfast City Council has not refused any door supervisors a licence as a result of their participation in the conflict here.

360. **Ms Ní Chuilín:** Therefore, to your knowledge, refusals have been made only on the basis of criminality rather than those who qualified for early release under the Good Friday Agreement.

361. **Mr Martin:** That is our understanding.

362. **Mr Magill:** When I speak to licensees about potential door supervisors and highlight that candidates have been convicted of drugs offences, GBH, or theft, they tell me that they do not want that type of person working for them. They put a great deal of weight against such issues when considering such candidates.

363. **Ms Ní Chuilín:** It seems to me that unless there is clarity or an arrangement is made through a potential partnership, an additional burden will be placed on councils, and ratepayers will endure much of the associated costs. Is that your understanding about the enforcement of the legislation?

364. **Mr Martin:** Councils must consider whether they wish to drop a scheme as a condition of licence. If they do so, they would have no enforcement role; instead, that role would fall to the SIA. However, if the SIA do not take on the enforcement role, there will be unlicensed door supervisors, and I could be asked by councillors what I was doing about it. That is a difficulty, and we would move from a council registered scheme to a scheme with unregistered people working as door supervisors. If it were to be made a condition of licence, I could not ignore it and I would have to police it. The SIA has suggested that we may want to examine that. In that case, the council would incur the policing costs.

365. One could be really cynical about the issue. Potentially, the SIA could effectively sit in England, take all the money for registration, then contact councils to tell them that unregistered doormen are working in their area and ask them what they are going to do about it. I am not suggesting that it would do that, but that could happen under the new scheme.

366. Councils must think very seriously about whether they retain the licensing schemes as a condition of licence. If they do, and the SIA policing is not as robust as it should be, a council could be in the position of having to police the scheme, because it cannot ignore a breach of condition of entertainment licences.

367. **Ms Ní Chuilín:** If there was an extension of an interim period to April 2010 as you suggested, do you envisage all your door staff being cleared and qualified through the SIA by then?

368. **Mr Martin:** The timescale is very tight, and because the legislation will not be introduced until September 2009, some people are sitting back and waiting to see what happens. We are concerned about those people.

369. **Mr James Cunningham (Belfast City Council):** Some 359 people in Northern Ireland hold a SIA door supervisor licence. Prior to March 2009, when people began to be informed about the SIA, 296 people held those licences. Therefore, effectively approximately only 50 people here took up a SIA door supervisor's licence in 2009. Most people are hanging back, and we anticipate that people are waiting until the legislation is introduced.

370. The processing time for the SIA to grant the licences is also an issue. We have suggested that the deadline is put back for to 1 April 2009, which would not affect the rest of the security industry. However, that extension may not, in itself, be enough. It is though a suggested time frame that will allow for some leniency. It would also mean that people will not be working illegally here come Christmas.

371. **Ms Ní Chuilín:** Do you feel that the training that those people have received so far with the support of Belfast City Council is up to the standard required by the SIA?

372. **Mr Cunningham:** Two training courses are in operation. One of those is carried out through the National Open College Network Northern Ireland, and the SIA has stated said that that course is up to its standard. We understand that those who complete that course in Northern Ireland gain a certificate and receive additional training from their training

provider. Courses are also run by the British Institute of Innkeeping, and completing them allows an exemption from part 1 of the SIA's course. People who complete that course have to do a further 14 hours of training and a one-hour exam to allow them to apply for an SIA licence.

373. I understand that the SIA's requirements for training will be reviewed in the next couple of years. Additional requirements will be included for door supervisors, for instance, for first aid. The SIA is conscious of the high level of door supervision that is provided in Northern Ireland and that the rest of the UK lags behind.

374. **Mr McNarry:** You are very welcome. The discussion appears to have majored on criminals who work as door supervisors. Can I take it that the majority of people who are employed in that type of work are not former criminals?

375. **Mr Martin:** I thought that that question would come up, so I checked through our records. We think that there are no criminal convictions on approximately 90% of the applications that we receive; therefore, approximately 10% of applications come from people with some form of criminal record. That is not an accurate figure; it is anecdotal evidence based on our experience.

376. **Mr McNarry:** That information is very useful; thank you.

377. Your briefing document states that the ultimate decision on whether people with a criminal record will gain employment rests with the employer. You said that, in many cases, you respect the decision of the employer and that you effectively endorse it. I am not sure about what employment status door supervisors have, given that the jobs are mostly part time, although, employment is employment. Is there any evidence that an employer would be open to a legal challenge if he were to refuse to employ an individual who had a criminal record?

378. **Mr Magill:** I am not an expert on human resources and employment law. When prospective door supervisors seek employment with some of the big licensees and providers with whom we work, their employment is subject to a satisfactory criminal record check. It is made clear to the door supervisors at the outset that part of the recruitment process involves their consenting to a criminal record check. If anything adverse were to result from that check, the employer would have the right to refuse employment. I do not know where that stands in employment law.

379. **Mr Martin:** If employers were to refuse a prospective employee on the basis of something that is considered to be discriminatory, they could be subject to legal action. If a potential employee were to feel that he was being discriminated against because of his race, religion, age, creed, and so on, I assume that possible legal action could follow against the employer. That is one of the reasons why Belfast City Council left the responsibility for employment to the employer.

380. Had we taken on that responsibility, we would have had to set up a scheme to administer the process. We would have had to set out all the criteria and put in place an appeals mechanism for cases in which people were refused employment. The council felt that legal action could have been taken against it, so I assume that employers feel that it could possibly be taken against them.

381. **Mr McNarry:** I asked whether you had any evidence of cases being taken to date, and you are saying that you have no evidence of that.

382. **Mr Martin:** We have no such evidence.

383. **Mr McNarry:** Are you saying that the proposed legislation may result in the likelihood that people will seek redress through the law on the basis of discrimination because of their criminal record?

384. **Mr Martin:** That could be the case. For example, someone was refused a taxi licence because of a conflict-related offence. Under the Good Friday Agreement, either a judicial review or an appeal took place, and case law on that now exists. If the SIA were not to recognise the Good Friday Agreement, I think that appeals or a judicial review would be put in against it to establish the Good Friday Agreement's place on the matter. Therefore, it is a difficult issue, but I imagine that there must be legal redress if people felt that they were being discriminated against when applying for doorman registration.

385. **Mr McNarry:** My impression is that the work that professional door supervisors undertake, and how they are supervised by yourselves and other councillors, is first class. That is great. However, I am beginning to hear alarm bells. Although we have a system, perhaps the system that we are talking about introducing may unravel, with licences costing more and employers being encouraged to pay part of that cost. Employers may also be concerned about ending up in court and being hit by large legal costs and even a claim if they make a mistake. That needs to be taken into account.

386. Your submission states that:

“The Council will need to consider whether it wants to partner with the SIA in enforcement of Door Supervisors in any other way.”

387. What do you mean by that?

388. **Mr Martin:** The SIA was not pushing the council when it initially spoke to us, but it said that we should consider making that a condition of licence. As I explained, if the council makes it a condition of licence, we have to enforce it, because we have to enforce all conditions of licence. The SIA then said that it would like to discuss with the council the possibility of other forms of partnership for enforcement. Obviously, that is because the council has local knowledge — we know the premises and the people involved. The SIA has not said what form that partnership could take.

389. Energy performance certificates are being introduced by the Department of Finance and Personnel (DFP). The Department does not have the staff to enforce the certificates across the 26 local authorities. It has, therefore, told the 26 local authorities that if they come to an arrangement on enforcing the legislation in their areas, the Department would create a scheme to pay the councils for doing that. Therefore, there is an offer on the table whereby DFP is offering funds to the 26 councils for them to employ staff to enforce the use of energy performance certificates. The Department has also indemnified the councils, and said that it will cover the legal costs if they need to take anyone to court.

390. That is an example of a fairly good partnership between a Government Department and a council whereby we could enforce someone else's legislation at no cost to the ratepayer. If the SIA was to come up with a similar offer, saying that it does not really want to police the Order in Northern Ireland and would like the 26 councils to police it in their areas, we could put that to the councils and ask them whether they wanted to take part. All the funding would come from the SIA, and councils would have the assurance that the system was being policed without any additional cost being imposed on the ratepayer. If that is the sort of partnership that the SIA is talking about, we will consider it, but those talks have not yet even taken place.

391. **Mr McNarry:** Thank you; that is very interesting. I do not want to read something into your submission that is not there; at least, I hope that it is not there. The submission states that:

“Event Stewarding has generally employed students.”

392. That is OK. However, it continues:

“There will now be a requirement for some stewards working at outdoor events to be SIA licensed”.

393. I do not know what “outdoor events” means. Would conditions imposed by another body, such as the Parades Commission, on an outdoor event be featured in the legislation with regard to stewards? The Parades Commission, for example, has laid down stipulations for stewarding.

394. **Mr Martin:** James and I were talking about that on the way here this morning. I will let James talk about outdoor events.

395. **Mr Cunningham:** Rather than stewarding at events, most door supervisor licences apply to licensed premises. For example, a parade is generally not “a licensed premises”. It would be up to the SIA to specify that, but our understanding is that parades would not require that type of licence. We are more concerned about events such as those on the Stormont Estate or the Tall Ships exhibition, which are run by events companies that employ stewards, which are generally students or retired people, as door staff to take tickets or whatever else.

396. People doing some of those jobs will be required to be licensed door supervisors. Some other such jobs will require a close protection licence, which is outside Belfast City Council’s remit, but will require substantially more training and will increase costs. A close protection licence would be needed by a worker who escorts someone from a changing room to the stage. It is not simply applicable to a bodyguard with a gun.

397. The door supervisor would simply be required to stand at a bar to organise a queue or to search bags at the entrance. That issue is causing problems in the events industry, and we have raised our concerns with the SIA about the potential implications across the Province.

398. **Mr Martin:** To be fair, the SIA is very much aware of the issues raised about the stewards, and is considering how to clarify the position. The question of how far the legislation extended was one of the matters that caused confusion at the seminars that we ran.

399. **Mr McNarry:** We are, unfortunately, not likely to have the likes of Elton John and Pavarotti back at Stormont, but is the council saying that an events company in control of such concerts must closely monitor the licensing requirements as described by Mr Cunningham? That would add substantial costs.

400. A lot of events appear to me to be ad hoc; they are not run by registered companies. Therefore, they do not fulfil the legal requirements of a registered company. Under the proposed Order, must bunches of people who get together to run events become

registered companies? I am not talking about fly-by-night organisations, which are a concern. However, must the regulations be tightened up now or eventually for an event that is organised, for example, by a family owned business that may not be registered as a company?

401. **Mr Martin:** Such issues need to be clarified. There is no dispute that doormen fall within the scope of the legislation. Down the scale, however, it becomes a question of where to draw the line. We raised the issue of our popular community events and festivals, and asked whether the people who controlled those types of events have to have registered door supervisors and events supervisors. The SIA said that if they were unpaid, voluntary staff, they would not have to be registered.

402. We then asked what would happen if they were paid. The answer was maybe. We told the SIA that, before the legislation is introduced, some clarity was required about exactly what was included and excluded, because the council was fairly clear about the schemes that it was running. However, the SIA is broadening the scheme beyond entertainment licences. In doing so, people will inevitably be caught in the net. The council asked, because people must know, how wide that net is. We must avoid implementing the legislation only to discover that the council is controlling groups that it had not envisaged needed to be controlled.

403. **Mr McFarland:** If a festival were being held at Botanic Gardens at which alcohol was available, does Belfast City Council issue a licence?

404. **Mr Martin:** Yes, we issue outdoor entertainment licences.

405. **Mr McFarland:** Presumably, the site of such an event would be like a big pub, which happens to have a group playing in it?

406. **Mr Martin:** Yes.

407. **Mr McFarland:** If the rules apply to a wee pub in Bangor or Belfast, in that they have to have a doorman, how can you not apply them to an enormous pub in Botanic Gardens? In effect, that site is the size of six pubs, which doles out drink to hoards of people with. That seems slightly daft, so I agree that the situation must be clarified. One cannot have a system that penalises one person while another is allowed to run an enormous event with the equivalent of six pubs on one site that is not being policed.

408. **Mr McNarry:** Are there no windows in that big pub that you are talking about?

409. **Mr McFarland:** In effect, you police the licensing of premises. Presumably, you would be recompensed for the extra cost of policing the added stipulation with respect to door staff. Furthermore, whoever carries out a licence inspection could also carry out a doorman check. Therefore, the extra responsibility should not become an enormous burden to you.

410. **Mr Martin:** Absolutely.

411. **Mr McFarland:** It should be possible so long as it does not cost you extra effort.

412. **Mr Martin:** The main expense would be the legal costs. Most weekends, our staff carry out performance inspections, during which they check that noise levels are acceptable, fire safety is sorted out and emergency exit doors are free of obstructions. Therefore, as you said, to check that all the doormen are registered and recorded would not be a big deal. The big issue for us would be about enforcement, and that is why, at this point in time, we are reluctant to impose that stipulation as a licensing condition, because, by doing so, we would not be able to ignore it.

413. **Mr McFarland:** If old Jimmy, who has been running a country pub for years, and, indeed, other part-time publicans, must now find a load of money to pay for door staff authorisation and licensing, one possible outcome is that they will stop trading. Publicans need somebody to do the job, so one can envisage big security companies, with a load of door people on their books, getting involved in this area. We can see from what has happened elsewhere that the security industry often moves in to carry out event security. Therefore, if I wish to run an event, I do not need to worry about hiring people; I simply call in a company to do that for me. Presumably, such companies pay, and are responsible, for licensing their people on the ground?

414. **Mr Martin:** Yes.

415. **Mr McFarland:** Do their directors have to be qualified as well?

416. **Mr Martin:** Yes.

417. **Mr McFarland:** Do you see things moving away from individual, part-time chaps who get a few quid for working on a Friday evening towards big business?

418. **Mr Magill:** Belfast has a number of service providers, like the companies that you talked about, with a pool of 40 or 50 men, from which they farm out doormen to various pubs and premises on various nights. Eventsec is one such company. However, the

proposals would impact on the majority of smaller pubs, particularly in the country, which might have a regular guy on the door. Those pubs will have to pay for their doormen to go on a course and for their registration. Therefore, there would be a financial burden on the guys who do the job on Friday and Saturday nights to earn a few extra pounds.

419. **Mr Cunningham:** Another issue will involve in-house, or contracted-in, security. Currently, anyone who is contracted to a bar is covered by the SIA. Under the changes to the legislation that are coming to Northern Ireland, in-house staff will be affected, so publicans who employ one or two individuals and the slightly larger pub groups will be hit. Those establishments employ people who perhaps work only on a Friday or Saturday night, and they will incur the high costs that are associated with training and licensing.

420. For example, a security company that employs Joe Bloggs to work on Friday and Saturday nights might also utilise him on other days of the week. Being a door supervisor is more of a full-time job, because many of them are required to move about and work in different establishments. The legislation will have an impact on the industry.

421. **The Deputy Chairperson:** Last week, we took evidence from representatives of one of the larger hospitality firms in Belfast, Botanic Inns, and they said that 50% of the company's security staff were employed in-house and 50% were contracted in. Is that a fair reflection of the situation in licensed premises across Belfast?

422. **Mr Magill:** I work closely with Botanic Inns. Another big hospitality company in Belfast, which has a similar number of establishments to Botanic Inns, is Wine Inns. It employs security staff directly; it does not contract in any security.

423. **The Deputy Chairperson:** How many door supervisors are put through the Belfast City Council scheme?

424. **Mr Magill:** Approximately 600.

425. **The Deputy Chairperson:** Is there a steady pool of employment?

426. **Mr Magill:** Initially, there was a big influx because of the three-year licence. However, the numbers have balanced out now, and we do not get as many applications as we used to.

427. **Mr McNarry:** For my own benefit, are private functions exempt?

428. **Mr Magill:** Are you referring to the SIA scheme or the Belfast City Council scheme?

429. **Mr McNarry:** Put it this way: does a private function such as wedding in a hall in the Belfast City Council area need an occasional licence or is it exempt?

430. **Mr Martin:** For an event to be classed as entertainment, it must provide named entertainment and there must be a charge. Therefore, a wedding in a hotel at which people are buying drink and a band is playing would fall within the scheme.

431. **Mr McNarry:** Is it up to the hotel to provide that licence?

432. **Mr Martin:** Yes. However, if a wedding were held in a church hall at which there was no charge for drink —

433. **Mr McNarry:** A church hall would not need a licence, I am thinking more of a —

434. **Mr Martin:** What I am saying is that the charge must relate to the entertainment. The concept of a charge was brought in to distinguish between that which is absolutely private, for example, music, singing or dancing at a house or people having a barbecue in their back garden, from that which is commercial.

435. A wedding in a community hall does not require an entertainment licence, even if a band were playing in the corner, because that is a private function; people are invited and there is no cost or charge. Weddings in hotels are also covered in that regard, because hotels are licensed. I am not sure how the SIA will deal with private functions.

436. **Mr McNarry:** Can we find out?

437. **The Committee Clerk:** Yes, we can.

438. **Mr McNarry:** Is there anything materially important about having an occasional licence for a private function?

439. **Mr Martin:** No.

440. **Mr McNarry:** Thank you.

441. **The Deputy Chairperson:** I thank Trevor, Brian and James for their evidence.

The Committee became inquorate.

On resuming —

442. **The Deputy Chairperson:** We will now receive a presentation from the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO). We are joined by Mr Pat

Conway, Ms Heather Reid, and Ms Anne Reid. On behalf of the Committee, I apologise for the delay. We have seen copies of your presentation, so I ask you speak for five minutes to introduce it. Members will then ask questions. We have about 25 minutes.

443. **Mr Pat Conway (Northern Ireland Association for the Care and Resettlement of Offenders):** We provided some background information to the Committee, and I can leave copies of the actual presentation. We welcome the opportunity to present our views.

444. The raising of standards in the private security industry, by appropriate regulation, is to be welcomed. We recognise that harmonisation will enable and assist security firms that are based in Northern Ireland to tender for contracts beyond the jurisdiction. The proposed legislation appears to favour option 3, which is the extension of the remit of the SIA to Northern Ireland.

445. In October 2006, NIACRO provided a written response to the NIO's consultation document entitled 'Regulating the Private Security Industry in Northern Ireland'. In that response, we stated that our preferred option was option 4, which was the establishment of a dedicated Northern Ireland agency. We are still of that opinion. Although we recognise the extra costs that would arise from such legislation, we believe that the long-term benefits, which include a clear message from the Assembly about the promotion of citizenship through access to employment, will outweigh the short-term cost. Fundamentally, we believe that the proposed legislation must be presented and implemented as being Northern Ireland specific.

446. NIACRO's view is that option 3 does not take account of the Northern Ireland context, particularly the unique prisoner/offender profile that exists here, including that of individuals who have conflict-related convictions. It is estimated that approximately 25,000 people received lengthy sentences as a result of the conflict in Northern Ireland. In addition, there was a wide range of prosecutions for offences that were clearly associated with the conflict, but that involved people who were not acting on behalf of any paramilitary organisation, for example, those convicted of disorderly or riotous behaviour, assault on police, possession of offensive weapons, and so on.

447. Any proposed changes must be proofed against current Northern Ireland legislation and processes, and should not simply seek to transpose those that pertain to England and Wales. Specifically, NIACRO questions the fit, or otherwise, with the following: the Rehabilitation of Offenders (Northern Ireland) Order

1978; the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979, which was amended in 1987, 2001 and 2003; part V of the Police Act 1997, which gave rise to Access Northern Ireland; the Fair Employment and Treatment (Northern Ireland) Order 1998, which relates to employment rights of existing employees; equality legislation and section 75; the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007; and the Office of the First Minister and deputy First Minister's (OFMDFM) guide to employing people with conflict-related convictions and employers' guide.

448. The proposed grid for the assessment of convictions is somewhat inflexible. NIACRO believes that that process should be informed by current multi-agency risk assessment processes. If it is determined that the proposed legislation reflects option 3, NIACRO recommends that at the very least there should be an adjudicating mechanism that considers and informs conflict-related convictions without fear or prejudice, for example, a locally driven, accountable and transparent sub-panel.

449. The field of public protection employment legislation is already crowded. The proposed legislation, despite its declared aim, is likely to add to the confusion for employers and the existing and future workforce. Rehabilitative elements are practically non-existent in the legislation that I mentioned. NIACRO believes that effective rehabilitation contributes to public protection and that employment is a significant factor in reducing offending. The proposed legislation will undoubtedly erect more barriers to employment and, de facto, will contribute to an increase in crime, and, consequently, the numbers of victims that are affected by crime.

450. In NIACRO's experience, many people have been discriminated against unnecessarily when applying for such posts by virtue of having any type of criminal convictions. To help to break down such attitudinal barriers, any proposed legislation must take account of the rights of an ex-offender who poses minimal risk to be re-integrated and to work. Obviously, that should be balanced by the need for public safety. It is crucial that employers are supported to understand and manage new legislation to minimise the potential for discrimination. It is imperative that the proposed legislation does not create any further unnecessary barriers to employment for individuals with convictions.

451. From experience, we anticipate that the proposed legislation will have a detrimental effect on existing licence holders and could result in job losses for individuals who are unlikely to obtain employment

elsewhere. Were that to be the case, it may also have an effect on a contractor's capacity for service delivery.

452. To conclude, NIACRO welcomes the raising of standards in the private security industry by appropriate regulation on the basis that the proposed legislation should be relevant and practicable to Northern Ireland. It is also imperative that the legislation does not create any further unnecessary barriers to employment for individuals with criminal convictions. This is not the time to reduce access to a contracting labour market.

453. **Mr McFarland:** We heard evidence from North Down Borough Council and, last week, from the Federation of the Retail Licensed Trade. There seems to be a general view that, after Mr Justice Kerr's ruling on PSV licences, very few employers risk ending up in court as a result of Good Friday Agreement convictions. We heard this morning that some 90% of those who are employed in the security industry do not have any such convictions. A small number do, but because of the risk of court proceedings, they are effectively ignored. It is a difficult matter. If people who committed offences in 1975 have served their time and have been normal citizens since their release, we must be careful about excluding them.

454. On the other hand, are you suggesting that it should not be taken into account if someone is still involved in racketeering or criminal activity? Unless AccessNI approaches MI5, which handles terrorism issues, how will that be decided? How will the system work if you recommend that we take no account of previous convictions?

455. **Mr Conway:** We are not saying that employers should not take account of previous convictions. We are saying that legislative, structural and attitudinal barriers exist. The St Andrews Agreement and the Good Friday Agreement referred to the politically motivated population. In our experience, those barriers have not been successfully addressed. A voluntary code, which I referred to earlier, is exactly that — a voluntary code. Employers are not obliged to comply with that code. In effect, that was one of our chief criticisms of the process.

456. **Mr McFarland:** I thought that Justice Kerr's ruling had changed that landscape completely. Did he not rule that people could not be discriminated against, for example, by being refused a PSV licence, because of a Good Friday Agreement conviction?

457. **Mr Conway:** Subsequent to Justice Kerr's deliberation, the Marks/McConkey case addressed the idea that people could not be discriminated against

on the grounds of political thought. In that case, two individuals applied for a job in the voluntary sector. Approximately two weeks ago, the House of Lords ruled in favour of the Simon Community, which had refused to employ the claimants.

458. **Mr McFarland:** That is important. We asked earlier for legal advice, because in 2007 OFMDFM apparently issued an edict to the effect that one could not discriminate —

459. **The Deputy Chairperson:** Pat referred to that matter. He said that the document that OFMDFM issued contains guidelines; there is no mechanism to make an employer comply.

460. **Mr McFarland:** I thought that the document was stronger than that.

461. **Ms Ní Chuilín:** It is a voluntary code.

462. **Mr McFarland:** That information is useful. There is a great deal of confusion about the law. In our first meeting last week, the Committee heard evidence to the effect that people could not do anything now. However, other people argue that that is not the case. We need to obtain a degree of clarity somehow.

463. **Ms Ní Chuilín:** My question is one that I asked to previous witnesses this morning. Given that the SIA is asking businesses to prepare to meet new standards, a substantial number of door supervisors will become unemployed because they cannot access training. It is almost the oddest form of constructive dismissal that I have ever seen.

464. The SIA is a British-based firm that has no understanding of the Good Friday Agreement or its implications. I will outline a caveat about some of Alan's confusions. However, schedule 13 of the Terrorism Act 2000 states that one cannot discriminate against someone because of a political conviction. In light of that, will the proposed legislation and guidelines that the SIA will use to regulate the security industry have an adverse impact on people who have a politically motivated conviction?

465. **Mr Conway:** We think so. Furthermore, we are conscious that the cohort of people who have politically motivated criminal records is decreasing because of the age profile. The demographics are such that many of those individuals are probably in their 50s, 60s or 70s now. In general, employers would not consider such people particularly employable.

466. **Mr McFarland:** That is age discrimination. We are into another area now. *[Laughter.]*

467. **Mr Conway:** We consider that to be a structural barrier. Such attitudes are common in employers in any western society. It is almost ageist.

468. I referred earlier to six pieces of legislation. Ostensibly, two of those are about rehabilitation, and have the word rehabilitation as part of the title. However, in our view, they do nothing to rehabilitate, but are focused more on public protection or the way that people think that public protection should be achieved, which is through monitoring and overseeing people who have convictions. Our argument is that if there were effective rehabilitation, and resources were skewed into a rehabilitative framework, it would contribute to public protection. I am referring to what we consider to be the "ordinary" ex-prisoner and ex-offender population. We delineate between politically motivated offenders and the rest of the population.

469. **Ms Ní Chuilín:** Do you believe that option 4 will promote better equality for citizens in the North than option 3 would? The latter is the NIO's preferred option.

470. **Mr Conway:** Option 3 is the SIA bolt-on.

471. **Ms Ní Chuilín:** It looks like it is the NIO's too, but we will not argue over it.

472. **Mr Conway:** Although there may be a cost to option 4 in the short term, our view is that it makes the most sense in the long term in that it promotes citizenship and recognises the unique profile that exists here. It also fits into a rehabilitative process that contributes to public protection.

473. **The Deputy Chairperson:** If I understand your presentation, the view of your organisation is that, if there were a bolt-on in option 3 that had a substructure related to what are called conflict-related offences, that might satisfy your concerns. Is that a fair enough reflection of the presentation?

474. **Mr Conway:** Yes. That would be our second preferred option.

475. **Mr Dallat:** Perhaps I will demonstrate my ignorance, because this is my first attendance at a meeting of this Committee. Have you any concerns about door supervisors with a past who have yet to sever their links with a particular organisation? For example, I know of a person who was silly enough to hit a bouncer, and has now discovered that he has been excluded from all nightclubs along the Causeway Coast. He has been taken off the Christmas card list of a particular paramilitary organisation, and, in fact, is almost in exile. There is nowhere that he can go, because clearly the power of the bouncers extends far beyond the premises in which they work. Through

their own structures, which have not been dismantled, they can effectively exclude a person from any form of entertainment at all.

476. **Mr Conway:** There is clear evidence that organisations that have not disbanded, and the structures of which remain intact, are capable of fundraising. Historically, it is well known that the security industry and protection was one way of raising money. That needs to be addressed. It reinforces the notion that the regulations should be specific to Northern Ireland, so that people know the landscape and the best way of dealing with the issue.

477. **Mr Dallat:** That is a fair answer.

478. **The Deputy Chairperson:** Thank you, Pat. Again, I apologise for the delay. If you have any questions arising from today's meeting, do not hesitate to contact us.

15 June 2009

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Alan Bresland
 Mr Thomas Burns
 Ms Carál Ní Chuilín
 Dr Stephen Farry
 Mr Adrian McQuillan
 Mr Stephen Moutray

Witnesses:

Mr Paul Goggins MP	}	The Minister of State for Northern Ireland
Mr Ronnie Armour		}
Mr Gavin Greenlees		
Mr Steven McCourt		
Mr Philip McCann	}	Federation of the Retail Licensing Trade
Mr Stephen Magorrian		
Mr Colin Neill		

479. **The Chairperson (Mr T Clarke):** I welcome the Minister, Mr Paul Goggins MP. Please introduce your team?

480. **The Minister of State for Northern Ireland (Mr Paul Goggins MP):** Ronnie Armour is head of policing operations support division in the Northern Ireland Office. Steven McCourt is head of operations branch, and Gavin Greenlees is from operations branch. The two gentlemen on my left you have heard from before.

481. **The Chairperson:** Thank you. We hope that this will be a constructive discussion. The Committee welcomes the opportunity to discuss the details of your proposals to regulate the private security agency in Northern Ireland. Minister, I invite you to make an opening statement.

482. **The Minister of State for Northern Ireland:** My opening statement will cover two things. The draft Order is before the Committee for its consideration as part of our consultation process. As members can see, it is a piece of technical legislation. It does two things. It applies the Private Security Industry Act 2001 to the Safety of Sports Grounds (Northern Ireland) Order 2006 in order to exempt certain individuals from the licensing arrangements, namely: in-house security staff; staff at grounds in which alcohol is

not sold; all volunteers, and in-house staff where the grounds or stands have a safety certificate under the appropriate legislation. Those provisions are important, because sports organisations in general across Northern Ireland are concerned that they are being over-regulated. They will be reassured by those provisions that that is not the case and that regulation is appropriate.

483. The second feature of the draft Order is to make an addition to paragraph 8 of schedule 2 of the Private Security Industry Act 2001 in order to include in-house door supervisors. Inadvertently, they were omitted from the legislation when it was originally drafted. It is important that they are included, and this legislation will enable that to happen.

484. Another thing we can do in this session is to have a general discussion about the operation of the Security Industry Authority (SIA) and the new system of regulation that I will be introducing in December. I will take a moment to explain that, as I was the Minister who took the legislation through Westminster in 2007. As the Committee will appreciate, several provisions in legislation would have fallen with the repeal of Part VII of the Terrorism Act 2000 had we not made provisions for those areas in the Justice and Security (Northern Ireland) Act 2007. One of those areas was the licensing of the private security industry.

485. Under the old system, there was very limited regulation. It applied only to manned guarding and not to all the other sectors that are now included. It related only to companies and not to individuals who work in companies. A license could be refused only if there was evidence of paramilitary involvement, and no account was taken of criminal involvement. We knew that we needed to at least replace the previous regulation and we also wanted to enhance it. That is what we did. We faced a choice. We could extend the remit of the SIA to Northern Ireland or introduce a whole new agency to Northern Ireland that would perform the equivalent task. Partly because we wanted to ensure that the arrangements were consistent across the UK, and partly because it would have been very expensive to have a Northern Ireland agency operating on its own, we decided to extend the SIA remit. The SIA will be responsible for licensing all operatives in the private security industry. Minimum standards of training will be required, which is an

important new feature of the regulation and there will be comprehensive criminal records checks made on all applicants. Therefore, it will be a much improved, much enhanced system of regulation.

486. My final comment is about the timing of the introduction of the new licensing arrangements. As the Committee is aware; from 1 December, it will be an offence to operate in the private security industry without a licence. I acknowledge that for in-house door supervisors, there would only be a very short period of time between the legislation coming into operation and 1 December; no more than two or three weeks. Even though the SIA has been open for business since May 2009, it is only fair to allow a greater amount of time. Therefore, I am putting the implementation date back for in-house door supervisors to have a licence to 1 April 2010, which is fair to those who operate in the industry.

487. **The Chairperson:** Thank you for that introduction. I welcome the extension of the deadline from December to April. However, that welcome is guarded, because some people feel that the system in Northern Ireland is already over-regulated. They feel that the current system is sufficient because certain councils have their own systems for training door supervisors. If we are to become part of UK-wide regulation, then extending the deadline is welcome, as that will give people time to receive preparation and training.

488. **Dr Farry:** I welcome the Minister and his officials. I welcome the principle of a common regime throughout the United Kingdom. There are particular circumstances in Northern Ireland due to the legacy of the Troubles and the current situation with paramilitaries. Will a common regime throughout the UK be able to take those particular complexities into account?

489. **The Minister of State for Northern Ireland:** It will, for a number of reasons. It is important to emphasise that when the 2001 Act went through the Westminster Parliament, there was widespread concern across Great Britain about the involvement of organised criminal gangs in the private security industry. At that time, there were all kinds of protection rackets across England, Wales and Scotland as well as Northern Ireland. The involvement of organised criminal gangs in private security is not peculiar to Northern Ireland; it was widespread.

490. The SIA has issued more than 300,000 licences, and criminality has largely been driven out of the private security industry. Therefore, the SIA has experience of dealing with complex and tough challenges. Conflict-related convictions in Northern

Ireland do pose a particular set of problems, and I have had good contact with the SIA and with my opposite number in the Home Office, Alan Campbell, who understands such issues very well. Although some of those discussions need to continue in the run up to December, I am very happy that the issues relating to Northern Ireland are understood. We will have a licensing organisation that understands the context and background in Northern Ireland and ensures that we have common systems across the UK.

491. **Dr Farry:** One of the primary motivations behind the legislation was to ensure that paramilitaries and organised criminal gangs do not infiltrate the security industry. Running criminal background checks is one way to establish the threat, but that can lead to a more complex situation. Someone who has been convicted in the past may not now be part of a paramilitary organisation or organised criminal network. Therefore, past convictions for such activity alone should not preclude people from working in the security industry. On the other hand, people can be involved in paramilitary or organised criminal activity and not have a criminal record. How can the system be made sufficiently robust to identify the threats and prevent such people from holding a licence?

492. That leads to the use of intelligence: to what extent will the security services be involved in the vetting of applicants? Although it is an important aspect of the process, what safeguards can be put in place to ensure that people with negative intelligence reports can challenge what has been said against them? Intelligence, although important, is never 100% watertight.

493. **The Minister of State for Northern Ireland:** There are a lot of issues in those questions, so I will give my answers with care. Conflict-related convictions are significant here, and I want to emphasise from the outset that there is no question of expunging criminal convictions from the record. All applications must be determined on the facts, and if they reveal that someone has committed a serious offence, that must be understood.

494. However, the Good Friday Agreement made it clear that even people with serious convictions predating the Good Friday Agreement who want to move on, and who no longer pose a serious threat to society, can be considered for employment. That approach was confirmed in Justice Kerr's judgement in the judicial review of the McComb case in 2003. It is also reflected in the OFMDFM guidelines to employers. That is the right way of acknowledging the past and enabling people to move on to earn a livelihood and engage properly in a fully lawful activity.

495. The SIA must look at all the facts and evidence and make a decision based on risk. Its judgement and the guidelines that OFMDFM has issued to employers will reflect the judgement made by Justice Kerr in the McComb case. An application can be made, and mitigating factors including conflict-related convictions can be considered as part of that application. If an application is rejected, an individual has the right of appeal.

496. I am seeking to make the process as seamless as possible, balancing the fact that there is a criminal record that cannot, and should not, be expunged with an attempt to move forward and enable people to engage in lawful employment. It is important that all criminal convictions are revealed as part of the process. It is also important for the Committee to know that non-conviction information can be shared with the SIA; and the Association of Chief Police Officers has signed a protocol with the SIA to that effect. However, there are some limits. Non-conviction information that is shared with the SIA will never be used by the SIA as the sole determinant of its decision. If it did so, and were challenged, it would have to share that information with the applicant and defend itself in the Magistrate's Court, which does not provide the same kind of protections as the High Court. Therefore, I acknowledge that there are some matters of fact involved.

497. It is important for the Committee to understand that, under the new system, everyone will be regulated and licensed; not just those who own and run the companies. We reckon that there are potentially 9,500 staff in private security companies. Involvement in a paramilitary organisation or organised criminal gang is a criminal matter, which should be, and will be, investigated by the Police Service of Northern Ireland with other organisations in the Organised Crime Task Force that deal with organised crime of that kind every day. Therefore, the Committee can be assured that this will not be a hands-off approach. Every individual will be licensed, and any evidence of criminal or paramilitary involvement will be investigated by the PSNI and dealt with in that way. As I said, the evidence from Great Britain is that organised criminal activity was a feature of private security as recently as 10 years ago, but that has been largely driven out by the regulation.

498. That was a lengthy answer, but it was a detailed question. It is important to recognise that there was no golden age of regulation of the private security industry in Northern Ireland in which national intelligence information was considered alongside convictions. Between the Terrorism Act 2000 coming into operation and its being superseded by the Justice

and Security Act (Northern Ireland) Act 2007, only one application was refused under the old legislation, and that was in the context of widespread concern about paramilitary activity and organised criminal activity in the private security industry. The direction in which we are moving with the new system is light years from where we were.

499. **The Chairperson:** The British Security Industry Association feels that companies as well as individuals should be licensed, and the Justice and Security (Northern Ireland) Act 2007 requires the screening of people who are in the control of their businesses. Do you have an opinion on that?

500. **The Minister of State for Northern Ireland:** As you pointed out, we need to get the balance right regarding regulation. Those who own and run companies will be subject to checks even though their companies will not be regulated in the same way as they were under the old system and the interim system. That is only right: anyone operating as an individual in the industry must be subject to criminal record checks and must be trained appropriately. We have got the balance right in focusing on individuals who operate in the industry.

501. **The Chairperson:** The Federation of the Retail Licensed Trade Northern Ireland expressed concern to the Committee about small companies with, perhaps, two, three or four directors. Their interpretation of the new guidance was that those individuals and door supervisors alike would be subject to the same tests. Is that fair? It puts additional pressure on small businesses, especially in the current economic climate, because, perhaps, up to four individuals would have to be trained along with the door supervisors they employ.

502. **The Minister of State for Northern Ireland:** We all understand and acknowledge that many companies are facing difficulties at the moment because of the economic downturn. We hope that things are looking up and that we can begin to move forward. However, it would be risky and unfair to expect the employees of a private security company to go through the training and the checks to get the licence and not expect those who run the company to go through the same process. That would leave a large gap in the scrutiny and regulation of the system. In fact, many people who run small companies of that nature are involved in the day-to-day work. What is being proposed is fair, but we are focusing on individuals rather than organisations.

503. **The Chairperson:** It is the requirement that certain individuals be made subject to checks and

training that is putting financial pressure on those businesses; and I am dwelling on that point. Is there an opportunity to make an alteration so that only one person representing the business will be subject to the regulations? When I studied the issue, I recognised their concerns. It is the door supervisors who face the public, and the concern in the past was that that was where regulation was required. I know that some companies signed up to voluntary schemes run by local councils. We can all accept that door supervisors have to be screened rigorously, but I share the industry's concern in cases in which more than one individual involved running a business will be subject to regulation. Could one person not represent the company, as long as all of the door supervisors were subject to the regulatory process?

504. The Minister of State for Northern Ireland: I do not think so, the reason being that we are extending the existing system operated by the SIA, which has considerable experience of operating the regulatory system. The evidence shows that its system has worked well. I am content to work in a way that ensures consistency in standards and operation across the United Kingdom. I understand that times are difficult for some companies, but I can see that, beyond the immediate future, things will get better.

505. The private security industry knows that higher standards, better training and more rigorous checks increase public confidence and give the industry a more competitive edge. Historically, the private security industry has not been as well developed in Northern Ireland as in other parts of the United Kingdom because the state had to take on many security-related functions during the Troubles. There are huge opportunities here for the private security industry to move forward with more confidence and certainty under the regulatory system that we are proposing. I do not see any reason or justification to change the system that is operating in the rest of the United Kingdom.

506. Ms Ní Chuilín: Thank you very much; you are all very welcome. Extending the training period to 2010 is very helpful. Stephen Farry articulated many of my concerns regarding conflict-related convictions and, up to a point, I am happy with the explanation given. However, other issues have been raised consistently.

507. Belfast City Council and North Down Borough Council have been running successful voluntary licensing schemes since 2002, and the licences from those schemes cost participants £30. However, the price of a licence will go up to £250, with a further £250 on top of that. Most door supervisors do not earn that amount in a month. I know that it is an investment

in their employment, but putting that cost on people — particularly political ex-prisoners who do not often find employment in other sectors — needs to be considered.

508. I have no difficulty with regulation, or with anyone who feels that there is potential criminality reporting it to the PSNI; but I have a huge problem with giving a lot of money to an English firm — I do not mean to sound biased; I am just being upfront — that does not have an office here and that will not be implementing the scheme here, as such. How will the scheme be implemented, tracked and scrutinised?

509. Local authorities are going to be reorganised under the RPA, and that will provide an opportunity for them, and indeed our taxpayers, to see the benefits of local regulation. No one is arguing against regulation. Some people have concerns about conflict-related convictions and the cost that the new legislation will have on the industry. Extending the training period has taken the sting out of that, because had the new licences to be in place by December, one of the busiest periods for licensed traders and door supervisors, that would have been a disaster.

510. Are you totally fixed on option 3? Can aspects of option 3 be looked at with aspects of option 4 as regards local regulation? Although the extension to April 2010 is very welcome, would it not be best to wait until policing and justice matters are devolved and bring this scheme in at that point? That makes sense to me.

511. The Minister of State for Northern Ireland: I applaud the voluntary schemes that have been put in place by Belfast City Council and others. They saw the problem, and they wanted to create greater public confidence. They have taken action, and I applaud that. However, the schemes only go so far. We want all councils and all organisations that use private security industry operatives to benefit from the scheme.

512. We propose that a range of aspects of the private security industry be legislated for and therefore be regulated, not just in-house door supervisors. Yes, there is an issue about cost. It works out at around £150 a week for the licences. I think that is good value for money given the reassurance it will provide; the checks that will be done, and the quality of the training that must be provided on a comprehensive basis rather than to individual organisations. The SIA does and will employ enforcement officers, who will work actively with the police and local authorities in Northern Ireland to ensure that there is proper enforcement.

513. We looked at option 4 seriously, but we concluded that the cost per licence would have been in excess of £600 as opposed to £245 under the SIA. Frankly, to create an organisation to carry out these tasks for a population of 1.7 million people would be too expensive. We thought it better to extend the remit of an organisation that was already tried and tested and was doing this work very effectively in the rest of the United Kingdom.

514. You mentioned the devolution of policing and justice, of which I am a very keen supporter and proponent and continue to work every day to make sure that we can move to that point. We were discussing these policies in 2006, even before there was stage 1 devolution. We have to carry on with the legislation and the regulations that we put in place at that point.

515. It has taken some time to reach this point. That was largely because we had to ensure that the SIA was comfortable with undertaking this work in addition to its other work. It deals with 5,000 applications a week across the rest of the UK, so it has a considerable workload.

516. Some time ago, we decided that 1 December 2009 is the right date from which it should start. It is clear that after the devolution of policing and justice, it will be up to you to determine the future. No doubt, you will examine all the issues with a view to the long term. However, as long as I have responsibility for policing and justice, I consider that the right thing to do and I am, therefore, proceeding to do it.

517. **Mr McQuillan:** To follow on from an earlier point, it is a bit ridiculous that, if a company has seven directors, every one must be trained in the legislation. Some of them may be, for example, financial directors who have no day-to-day contact with running the business. Is it not a bit silly to force them to become accredited?

518. **The Minister of State for Northern Ireland:** I have answered that question. I may not have convinced you, but the SIA's experience is that that the best approach is to have in place a universal rule that is fully understood and properly implemented.

519. **Mr McQuillan:** Is there no means of moving away from that requirement?

520. **The Minister of State for Northern Ireland:** No, because it is clear that we cannot pick and choose the bits of the SIA that we like or otherwise. The SIA has to deal with 5,000 applications each week and must, therefore, be able to get on with that. A consistent system is, therefore, required, rather than

a complex system that differs among various parts of the UK. The evidence is that the system has worked in Great Britain. The way in which the SIA has operated has produced not only more regulation but more confidence in the industry and the wider public. I see no reason to change that system.

521. **Mr Moutray:** You are most welcome, Minister. The recent Audit Office report on the SIA advises that it is:

“on the way to meeting its target of processing 80 per cent of applications within six weeks.”

522. What assurance can you give that the SIA is well equipped to deal in a timely manner with the volume of applications that it will receive from Northern Ireland? Secondly, will the intelligence services have a role to play in the consideration of applications?

523. **The Minister of State for Northern Ireland:** In April 2009, the SIA dealt with 90% of applications within the timescale that it set for itself. The evidence, therefore, is that the SIA is delivering on the targets for that process. It deals with 5,000 applications each week from GB. We estimate that the total of approximately 9,500 applications for Northern Ireland will represent about 3% of SIA's throughput. I am confident that the SIA can manage the workload. All the evidence shows that the SIA has effectively regulated a part of the business world that had been totally unregulated before 2001.

524. The second question touches on Dr Farry's earlier point. Non-conviction information can be shared with the SIA; there are protocols with the police for that. However, the SIA will not take decisions based solely on non-conviction information because that must be shared with the applicant and would have to be revealed in a magistrate's court, which does not have the protections of the High Court. That limits the type of information that will be shared.

525. The reassurance that I can offer to the Committee is that where the PSNI, or any law enforcement agency, believes that a criminal element is at work, or that there is some paramilitary involvement, it will treat that as seriously as it would any hint that such organisations were involved in fuel fraud, extortion, or any other criminal activity. The PSNI will investigate such matters thoroughly and, if people are breaking the law, it will bring them to justice. That, coupled with the reassurance that everyone operating in the private security industry will have to be checked and licensed, is a reasonable balance that should give people confidence.

526. **The Chairperson:** Do people in Northern Ireland and England pay the same price of £245 to the SIA for an application?

527. **The Minister of State for Northern Ireland:** Yes.

528. **The Chairperson:** Will that be delivered to businesses here or will they have to travel to the mainland?

529. **The Minister of State for Northern Ireland:** They will not have to travel, but they will have to make the payment.

530. **The Chairperson:** I was referring to whether the training would be delivered in Northern Ireland.

531. **The Minister of State for Northern Ireland:** The training will be delivered here. That is beginning to happen since the doors were opened to applications in May. The training is being provided, and I think that people will see that this is not about just form filling and regulation for its own sake, and the payment of a fee. It is about training and raising standards.

532. **The Chairperson:** Was the SIA the only company that the Government considered to provide training, or was there a tendering process? This looks a bit like a monopoly. If there were no other companies in the frame, once this matter is settled we have no control over how much fees could rise. Were other companies considered when the regulation was introduced on the mainland, or was the SIA the only company that was prepared to deliver training?

533. **The Minister of State for Northern Ireland:** The SIA is the regulatory body. Training is provided locally, and the key issue is that the SIA has to be happy that the training meets certain standards. That is its role in this. The SIA is not a training provider; others provide the training. The SIA has to be satisfied about the standard of the training.

534. **Mr Steven McCourt (Northern Ireland Office):** The SIA has training organisations that are accredited to the SIA as part of the overall scale and development of training. The SIA itself does not provide training.

535. **Mr Bresland:** Local councils have raised concerns about the added cost of enforcement. How will the SIA undertake responsibility for the licensing and enforcement of the legislation and ensure that it does not become an extra financial burden on local councils?

536. **The Minister of State for Northern Ireland:** I understand that there is concern about that, and I hope that I can reassure you. The SIA is responsible

for enforcing its own regulation. Therefore, it grants the licences but also enforces the regulation across the industry. If there is any evidence, whether from a council, the police or any other public body, that people are working in the industry without a licence, that should be reported immediately to the SIA. The company employs and deploys enforcement officers across the United Kingdom, including Northern Ireland from 1 December. It will be the job of the enforcement officers to make sure that people are complying.

537. The whole purpose of the SIA is to get people to comply with regulation. That is its priority. When people do not comply, however, they face the possibility of court sanction, including fines or, in certain cases, imprisonment. The penalties are, where appropriate, harsher for those who supply operatives into the marketplace.

538. Therefore, the procedure is clear. People may report to the SIA instances where they think that there are breaches of the regulation. It is for the SIA to enforce the regulation, and, ultimately, for the courts to enforce any sanction that is imposed.

539. **The Chairperson:** It has been useful to hear some views aired, and to know some of the concerns before you came here today. Those concerns will probably not have gone away. Some of us have concerns about various aspects of the legislation. However, we can see that you are strong willed and you do not look as if you will change your mind. However, I thank you for coming.

540. **The Minister of State for Northern Ireland:** I am grateful for the opportunity. When I was considering this matter in 2006, and we took the legislation through in the Justice and Security (Northern Ireland) Act 2007, we did not have the devolved Assembly or Administration in operation. Therefore, there was not the same opportunity to have this type of exchange. Even though we focused on the wider issues, this meeting was helpful.

541. We just want to reassure you that, as we move to implementation, I will carefully consider what the Committee says in its own findings and conclusions. I will continue to liaise with the industry, and I believe that the Committee will be taking evidence later from the Federation of the Retail Licensing Trade. I will be meeting federation members in the near future. I have also met the trade unions that are involved. I am keen to make sure that we do not do this in a high-handed way, but liaise with people and discuss any issues. We will also continue to have discussions with the SIA

and the Home Office to make sure that we introduce this legislation as effectively and sensibly as possible.

542. **Mr McQuillan:** How many enforcement officers will there be in Northern Ireland?

543. **The Minister of State for Northern Ireland:** The SIA currently has 48, and I believe that it is recruiting with a view to having 50 enforcement officers for its entire operation. Clearly, the SIA decides where to deploy those staff, and it might have different numbers in different places at different times.

544. The SIA will obviously pay particular attention to Northern Ireland when the new licensing arrangements come into operation.

545. **The Chairperson:** OK. Thank you again, Minister.

546. We will move on to the evidence session with the representatives of the Federation of the Retail Licensed Trade Northern Ireland. They have been invited to return for a further discussion of the Minister of State's briefing to the Committee. I welcome Mr Colin Neill, the Federation's chief executive; Mr Philip McCann, who is a publican; and Mr Stephen Magorrian, the managing director of Botanic Inns. You will have heard the previous discussion; I am sure that it has inspired various questions. I invite Mr Neill to make his presentation.

547. **Mr Colin Neill (Federation of the Retail Licensed Trade):** Thank you, Chairperson, for giving us the opportunity to come back to the Committee. We have not had time to consult during today's session, so my colleagues will join in as I make my presentation.

548. My perception of the Minister of State's approach is that he still views the issue from a security industry perspective. We are in a different industry; our primary role is not security. That is not what we do on a day-to-day basis. That links back to the non-front-line licence because one has to be of good character anyway to obtain a publican's licence.

549. I will restate our position. We welcome the Minister of State's objectives and believe that the members of the Committee will share those objectives about the control and improvement of doorkeeping regulation. However, we feel that that the existing schemes in Northern Ireland that are run by councils are good schemes, and we do not believe that a new agency is needed. We could enhance existing schemes, retain the money for them in Northern Ireland and ensure a much more cost-effective approach.

550. We also welcome the Minister of State's announcement that he will extend the deadline for

training and licensing under the SIA regulatory process from 1 December 2009 to 1 April 2010. We lobbied hard for the extension, because the 1 December deadline would have been catastrophic for our industry at such a busy period.

551. I appreciate that the SIA has moved somewhat, in light of the requirements of the Good Friday Agreement. From our point of view, however, people will still have to undergo training and obtain a licence, both of which they have to pay for, only to find that they may have to engage in another, longer process. I would much prefer to ask first whether I will be able to obtain a licence, and then do the training and pay for it. To discover that you have lost your £500 after all that does not seem terribly fair.

552. We are not involved in the security industry. Security is not the primary role of the directors of a family-owned pub. As I said, one has to be of good character to get a publican's licence. Tools that are geared for one industry are going to be applied to another. With respect, I appreciate that the Minister of State wants to ensure a UK-standard approach, but what we are requesting will not alter licences; it will just change the numbers of people that have to be licensed. The application process would not be altered by allowing one director to apply rather than four.

553. The Minister of State does not believe that the council-run licensing schemes are an option. We believe in the existing arrangements between the industry and the local councils. There is no need for a new agency, because the bodies are already there. There is always room for enhancement of the existing system, but I am still of the opinion that the quality of the existing training is better than the training required by the SIA.

554. The problem with the six-week application process is that an application by someone who is affected by the Good Friday Agreement provisions will take much longer than six weeks to process. The mitigating circumstances of such a case elongate the process, and no one can say how long that could take.

555. Enforcement becomes complicated if somebody has to find out something and then report it to another. It is different if councils look after the entertainment licences. There are proposals under the draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 to look after the liquor licence, and one wee bit of it will be hived off to GB organisations.

556. **Mr Stephen Magorrian (Federation of the Retail Licensing Trade):** Thank you for the opportunity to talk to you today. Mr Neill has said

everything that needs to be said. We welcome the extension to 1 April 2010. I was worried about introducing any new legislation in December, because that is a very busy time. I was also worried about organising and carrying out training. Training is arranged to start tomorrow night, but I am going to cancel it because I have not had a chance to look at it. It was organised in haste, so the extension gives us more time to organise.

557. We are not in the security industry; that is a small part of our business. I employ more than 30 doormen, and, at Christmas, the number is closer to 40. They are part-time workers. I did a radio interview this week with one of our chaps who has been with us for almost seven years. He is trying to run his own business, but he has been asked to do 30 hours training and pay for a licence. It is not only the £250 for the licence that is causing him concern; he has to give up 30 hours for training as well. The same applies to all of the guys who work for us. Some of them cannot do it. One chap has told me that he will be leaving, because he lives in Newtownards but the only work that he can get is in Enniskillen. Therefore he travels every day, and he cannot fit in 30 hours training.

558. The point was well made that the guys do not earn £250 a month. They work one or two nights a week, and the chap whom I started with works three nights a week. They do not see the costs as £1.50 a week, as the Minister said, but as £250 cash that has to be found. Therefore, I am still concerned about the costs, and, I am concerned about the industry losing good people because of those costs.

559. Mr Neill talked about the smaller pubs. Some of those outlets will decide not to employ door staff, because it is easier not to. If they do not employ door staff, they will not have to get a licence; if they do not have to get a licence, they will save on a couple of costs. I am not sure that the overall standard would improve as a result of the legislation.

560. I have worked with Belfast City Council for a long time, and its scheme is excellent. I have some indication of what the SIA training involves, and I know what Belfast City Council training involves. The Belfast City Council training is more in-depth. For instance, its training involves first aid, and the SIA training does not. The Belfast City Council system is much cheaper. The licence costs £30, and it can be linked to an entertainment licence. It involves one visit from the council officials to enable them to ensure that the door staff are wearing their name badges, for instance. There is no need for other enforcement officers. I do not see the benefit.

561. **Mr Philip McCann (Federation of the Retail Licensing Trade):** Thank you for listening to our comments. I have concerns, because it seems that the Minister is keen to do it his way. He said that the opportunity would come in a few years' time, and that we could do it the way that it is done elsewhere. The same thing happened when David Hanson parachuted in licensing regulations. His thinking was that it had to work here, because it works in England. It does not work in the same way because the licensing system in England is different. It is not necessarily going to work in the same way here.

562. The SIA system is more global. As Mr Neill said, we are only interested in what is happening in respect of door staff. The SIA is looking at the whole gamut, and we are trying to fit that square peg into a round hole. I have a problem with that. I also have a problem with the training. As some of the members asked, why will every owner or director have to be trained? We have directors who are 60, 70 and 80 years old. Are they going to go through security training because they employ one or two door supervisors? That is ridiculous.

563. **The Chairperson:** I share your concerns in relation to some of the points that have been made. The delivery of training will cost £245 through the SIA, but the Minister claimed that training by a stand-alone Northern Ireland body would cost £600. Perhaps we did not press the Minister sufficiently on that.

564. **Mr Neill:** It costs £245 for an SIA licence, regardless of who provides the training. The requirement is that one must have training with an accredited body, and there are a range of trainers. As an industry body, we provide training, and we have always done that for the other councils with door schemes. Pricing varies, depending on the numbers involved. A quality rate would be in the region of £200 to £250. I would have concerns with anyone who provides training below that level.

565. **The Chairperson:** Are you saying that one can go to any accredited firm?

566. **Mr Neill:** Yes, as long as those firms are providing training to an accredited level. There are several bodies, such as City and Guilds, and one can go anywhere for the training. The market price would be around £220, £230 or £250 for each person.

567. **Mr Magorrian:** Since the training has to be provided, a number of people have seen the opportunity to create a business and make money. Several people have gone forward and managed to become accredited by the SIA. We now have a choice of people who provide the training, from colleagues

to individuals who have worked in England and have an SIA licence, to people who have never worked on doors but who have managed to do the training in England and get an accreditation and set up a business to train doormen in Northern Ireland. We have a choice of people whom we can deal with.

568. The difficulty is that there are still some grey areas with the SIA, as it has been set up to cover the number of hours taken for the training, and the SIA recommends 30 hours. There is the question of how many people can be trained at one time and there are general rules around that. However, there are a number of options in Northern Ireland for people who can provide training.

569. **Ms Ní Chuilín:** There is a concern about the issue of liquor licensing and what David Hanson did in the past. It is even more worrying, because I did not realise that the Department for Social Development is due to bring forward legislation on liquor licensing. The SAA has an impact on entertainment licensing, because if door supervisors cannot be trained, premises will not get an entertainments license. That will still be the case, no matter whether it is implemented in December or April. We will still face that problem. The big concern is that liquor licensing will now be partially affected as well.

570. However, we still have to deal with the issues. Mr Neill raised the point about whether we could have some sort of clearance on payments. I am not convinced that people who have received £245 to provide training and who then find out that clients are not eligible will return that money. Equality issues are involved. A person needs £500, and he or she must be able to invest 30 hours for the training. Anyone who has a part-time job and who works on the doors would find that 30 hours of training would cost quite a lot. That figure must be built in as well, which means that we are talking about at least £500. People who need the training would have to take two hours off work each week, and their hourly rate would need to be added on. We are dealing with an artificial figure.

571. There is then the proposition that it will cost, on average, about £500, but possibly £600, for option 4. The Committee has not received the breakdown of figures for that, and it needs to know the details. No one is arguing that regulations are not needed. However, the problem is the way in which it is happening, and I am not convinced of its benefits to the people living in the North. I am not convinced that it will not have a bigger impact on people with conflict-related convictions. It will have a big impact on clubs and pubs and on entertainments licences, and it will dilute the authority of local councils. Having

said all that, I am still not convinced — even after what the Minister and his colleagues from the NIO have said.

572. I do not know whether it is right for me to ask this question, but if you were drawing up the legislation, what would it look like? If you were to amend the proposed legislation, what would it look like? What would you put in, given what you have said?

573. **Mr Neill:** Our preferred option would be to develop a Northern Ireland model in co-operation with councils. I have worked in local government. It is an NIO-orientated proposal, in that the NIO's concept of the only option is to go with a Northern Ireland agency.

574. There are currently 26 councils, which are soon to be reduced under the RPA, and those councils already exist and deliver services. Our proposal would mean giving those councils the power to enforce. There would be no necessity to create another body, and it would only mean an extension of the role of those councils. It would be an opportunity to create a bespoke system in Northern Ireland, with the industry working in partnership with local authorities, as they do already.

575. As I have said previously, our current door-training scheme includes a first aid element, but the SIA one does not. Therefore, the introduction of that scheme would mean a dilution of the quality of training at a much increased cost, when a much better system already exists. Too often, we are told that best practice exists in GB, when, in reality, best practice already exists here. Furthermore, the pub industry is not the same here as it is in GB. The industry in England, for example, involves pub companies running thousands of bars, whereas here the industry is predominantly owned and operated by local individuals. That is a much better system for the councils to work with.

576. In relation to the point that has been made about people getting time off to train, it has been suggested that people would be taking two hours off each week, meaning that the training would take months to complete. In fact, many people may have to take a week's holiday leave to complete the training. Therefore, the cost of paying their salaries would have to be added to the existing costs.

577. **Mr Magorrian:** I, like Colin, believe that the councils could have more teeth than the SIA. The Minister has suggested that an SIA enforcement officer will visit pubs and try to work with people, and if individuals do not work with that officer they could, potentially, be taken to court. However, under the new licensing legislation, councils will have powers to

introduce penalty points. If one of the requirements was that door staff had to be registered through the council scheme, and that was then found not to be the case, councils would have more power to take immediate action than the SIA.

578. **The Chairperson:** I again thank the witness for their attendance today.

579. The point that Carál raised on background checks was missed when the Minister was here. If Members are content, the Committee can write to the Minister to ascertain whether background checks can be done before the training commences for those personnel who are concerned about their past. That will not affect every licence applicant, but if members are content, the Committee could ask the Minister if such a mechanism could be built in for those with concerns about conflict-related convictions.

Members indicated assent.

580. **Ms Ní Chuilín:** Is there a body that represents councils? I know that NILGA looks after councillors.

581. **Mr Neill:** SOLACE is the authority that represents local authority chief executives.

582. **Ms Ní Chuilín:** Although the Committee has offered an opportunity for people and bodies to give evidence to this inquiry, it may be worthwhile writing to NILGA and SOLIS with respect to the concerns raised about the local authorities here.

583. All councils have a building control department in which entertainment and liquor licences are granted. With the roll-out of the RPA, I think that it would be worthwhile inviting contributions from those bodies to try to strengthen some of the comments that have been aired here.

584. **The Chairperson:** The Committee is possibly running out of time for that, but perhaps it could obtain written evidence from those bodies.

585. **Mr Neill:** Before we finish today, we would like to provide the Committee with the federation's current wish list. We were due to meet the Minister on 22 June 2009, but that is the date of the election of the new Speaker of the House of Commons, and, as he will be involved in that, he has moved our meeting to 30 June 2009. Therefore, as the Committee's inquiry also concludes at that time, we will not be able to update it on that meeting.

586. Our stance to the Minister will be that the best option is to retain and enhance the process of the industry working with councils and the councils policing the system. We feel that that is an effective

model and that it fits in with our move to a Province-wide code of practice on responsible retailing for the industry, with an independent complaints panel. All of the statutory bodies, and the whole industry, have signed up to that model, and that is moving forward.

587. If responsibility is to be transferred to SIA, although we welcome the delay for implementation to April 2010, we would also like the reduction or removal of the need for non-front-line licences, because the licensee has already proved good character in obtaining a licence. We also want all the criminal justice checks to be done up front before all of the money gets sucked away.

588. **The Chairperson:** Thank you very much.

Appendix 3

**Written Submissions
and other correspondence
considered by the Committee**

Written Submissions and other correspondence considered by the Committee

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Minister of State

Mr William Hay MLA
The Speaker
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12 May 2009

Dear Mr Speaker

**PROPOSED DRAFT PRIVATE SECURITY INDUSTRY ACT 2001 (AMENDMENT)
(NORTHERN IRELAND) ORDER 2009**

I am writing to advise you that on 12 May I will lay a document containing a draft Order under section 85 Northern Ireland Act 1998 with Parliament in accordance with section 85(4) of that Act. The Order is entitled the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009. I am, by this letter, referring the draft Order on behalf of the Secretary of State to the Assembly so that it may consider the proposals contained in the draft Order and report accordingly. In accordance with Section 85 timescales, the consultation process will extend for 60 parliamentary sitting days, commencing on Tuesday 12 May 2009 and finishing on Monday 20 July 2009.

The proposed draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 will make minor technical amendments required to ensure the Private Security Industry Act 2001 will operate in Northern Ireland as it does in the rest of the United Kingdom. I have given a commitment to the extension to Northern Ireland of licensing under the 2001 Act by the Security Industry Authority (SIA), with the licence requirement commencing in December 2009. After that it will be illegal to engage in licensable conduct in Northern Ireland without a licence from the SIA. Current interim arrangements under the Justice and Security (Northern Ireland) Act 2007 require persons offering or providing security guard services for reward to obtain a licence from the Secretary of State.



INVESTOR IN PEOPLE



Northern Ireland Office

Using the SIA will ensure that standards are equal throughout the UK and will increase Northern Ireland's ability to operate and compete on a national level. It is the most cost-effective and efficient option for regulation and will meet the objectives outlined below:

- increase public safety and confidence in the industry;
- promote best practice within the industry and remove those who seek to use their position to pursue criminal activities;
- raise standards of competence and professionalism for security companies;
- improve the reputation of the industry;
- protect and recognise companies and individuals who do operate to high standards and who have invested in training and selective recruitment;
- specify minimum levels of training for security personnel; and
- make the industry an attractive career choice.

The SIA's multi-agency approach to compliance and enforcement activity sits well with the methods currently used in Northern Ireland and could be successful in tackling the problem of organised crime within the industry. Using the SIA will provide a robust regulatory framework that will protect both those operating legitimately within the industry and those who avail of private security services.

A copy of the draft Order in Council and an explanatory document is being provided to your office on 12 May for the Assembly's consideration. I stand ready to do whatever I can to assist the Assembly in its consideration of the Order and I look forward to receiving the Assembly's views in due course.

A handwritten signature in black ink that reads "Yours Paul".

PAUL GOGGINS MP
Minister of State for Northern Ireland



INVESTOR IN PEOPLE



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Minister of State

Members of the Legislative Assembly

12 May 2009

Dear Colleague

**PROPOSED DRAFT PRIVATE SECURITY INDUSTRY ACT 2001 (AMENDMENT)
(NORTHERN IRELAND) ORDER 2009**

I have today laid before Westminster proposed draft legislation – the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 – which has simultaneously been sent to the Assembly for formal consideration under the terms of section 85 of the Northern Ireland Act 1998.

The proposed draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 will make minor technical amendments required to ensure the Private Security Industry Act 2001 will operate in Northern Ireland as it does in the rest of the United Kingdom. I have given a commitment to the extension to Northern Ireland of licensing under the 2001 Act by the SIA (SIA), with the licence requirement commencing in December 2009. After that it will be illegal to engage in licensable conduct in Northern Ireland without a licence from the SIA. Current interim arrangements under the Justice and Security (Northern Ireland) Act 2007 require persons offering or providing security guard services for reward to obtain a licence from the Secretary of State.

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Ireland
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The SIA's multi-agency approach to compliance and enforcement activity sits well with the methods currently used in Northern Ireland and could be successful in tackling the problem of organised crime within the industry. Using the SIA will provide a robust regulatory framework that will protect both those operating legitimately within the industry and those who avail of private security services.

A copy of the draft Order in Council and an explanatory document is attached to this letter for your consideration. These are matters which I know are of interest to Members of the Legislative Assembly and which I hope that devolved Ministers will have responsibility for in the near future. I am therefore anxious to help the Assembly in its consideration of the Order.

A handwritten signature in black ink that reads "Paul Goggins".

PAUL GOGGINS MP
Minister of State for Northern Ireland



INVESTOR IN PEOPLE

Briefing paper from the Northern Ireland Office

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

Background – Extension of the Security Industry Authority regulation to Northern Ireland

The private security industry in Northern Ireland was previously regulated under the provisions of Schedule 13 to the Terrorism Act 2000. Part VII of the Act contained the temporary provisions relating to Northern Ireland and these were repealed in 2007 as part of security normalisation.

From 1 August 2007 an interim licensing regime under the Justice and Security (Northern Ireland) Act 2007 was introduced while the Government undertook a review of the private security industry in Northern Ireland exploring the various options available for regulation. The interim scheme focuses on the greatest threats to public safety. Specifically that proscribed organisations should be prevented from profiting from the private security industry. It does not address best practice issues. For instance, there are no set criteria relating to vetting for convictions, professional standards or levels of training. This is the reason for such ease of entry into the industry, allowing unscrupulous and untrained individuals to operate within it. This creates a potential for the industry to be used as a vehicle for extortion, compromising the health and safety of those making use of the private security service. This disadvantages good employers who bear higher costs from training and employing high quality staff.

At the time of the review the Minister for State, Paul Goggins, believed that failure to establish a permanent and robust regulatory regime following the expiration of the provisions of the Terrorism Act 2000 risked encouraging criminal activity within the industry. An industry without adequate regulation could become inviting to those wishing to exploit it, making it a target industry for extortion and bad practice. Furthermore, a threat would be presented to public safety if those operating in the sector, including door supervisors are not appropriately trained. Self-regulation of companies did not appear to be sufficient to tackle these issues.

The Governments objectives from permanent regulation of the private security industry are to:

- increase public safety and confidence in the industry;
- promote best practice within the industry and remove those who seek to use their position to pursue criminal activities;
- raise standards of competence and professionalism for security companies;
- improve the reputation of the industry;
- protect and recognise companies and individuals who do operate to high standards and who have invested in training and selective recruitment;
- specify minimum levels of training for security personnel; and
- make the industry an attractive career choice.

Achieving these benefits of regulation by:

- ensuring a thorough but efficient administrative structure is in place to oversee the process of regulation;
- providing a robust regulatory framework for the future;

- ensuring that the financial burden on the industry is kept to a minimum by choosing a form of regulation which is good value for money; and
- ensuring early awareness and implementation of the new form of regulation.

Recommendations by the IMC and NIAC

The Fifth Report of the Independent Monitoring Commission stated that there was direct evidence of paramilitary involvement in the private security industry in Northern Ireland, resulting in many firms suffering from extortion. They stated that the current, temporary control regime in Northern Ireland was “less stringent” than the regime in England, Wales and Scotland, and was insufficient in preventing paramilitary infiltration into the industry.

The Northern Ireland Affairs Committee (NIAC) identified the potential for exploitation of the industry by paramilitaries and organised criminals. It recommended that the area of regulation of the private security industry in Northern Ireland be dealt with as a matter of priority. It also identified the need for appropriate training and registration of door supervisors, and noted the problems with the form of self regulation that is encouraged by some, but not all, councils throughout Northern Ireland.

Developments in other jurisdictions

The Private Security Industry Act was passed in 2001 and under this legislation the Security Industry Authority was established to permanently regulate the industry in England and Wales (and from November 2007, Scotland). Following permanent regulation elsewhere in the UK and Ireland, Northern Ireland companies find themselves on an unequal footing with the rest of the industry in the UK because the same rigorous standards established by the Private Security Industry Act 2001 were not applied or enforced by Schedule 13 or by the current interim scheme. This creates difficulties for companies wishing to operate on a UK-wide basis and prevents Northern Ireland companies from competing outside this jurisdiction.

Consultation

A consultation document entitled ‘Regulating the Private Security Industry in Northern Ireland’ was circulated to organisations representing the private security industry, political parties, relevant local authority organisations, and a wide variety of other organisations with an interest in or who avail of private security services. This document set out the options for regulation and highlighted the Government’s preference to extend the remit of the SIA, the regulatory body in England, Wales and Scotland, to Northern Ireland. A summary of the response to the consultation has been provided to the committee.

Conclusion

The Security Minister took into account all comments and views in relation to developing a new scheme of regulation for the industry in Northern Ireland. After carefully considering the options for regulation, the Government believed that on balance, extending the remit of the Security Industry Authority was the right way forward.

Using the SIA will ensure that standards are equal throughout the UK and will increase Northern Ireland’s ability to operate and compete on a national level. It is the most cost-effective and efficient option for regulation and will meet the objectives of regulation as outlined in above. The SIA’s multi-agency approach to compliance and enforcement activity sits well with the methods currently used in Northern Ireland and could be successful in tackling the problem of organised crime within the industry. It is the Government’s view that using the SIA to provide a robust regulatory framework will protect both those who are operating legitimately within the industry and those who avail of private security services.

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

Legislative Context

The Private Security Industry Act 2001 sets out a system for the statutory regulation of the private security industry. Sections 1 and 2 of and Schedule 1 to the Act set up a Non-Departmental Public Body, the SIA. The SIA has responsibility for licensing individuals to work within designated sectors of the private security industry.

The aim of the Home Office and the Northern Ireland Office is that the activities that are currently designated under the Act in relation to England and Wales, and Scotland, will be designated in Northern Ireland from December 2009 onwards. The effect of the designation will be that these activities can only be carried out legally in Northern Ireland with a SIA Licence. Once this has been done there will be a unified regime for the regulation of the private security industry across the United Kingdom.

The purpose of the instrument being considered by the committee is to make a number of minor amendments to the Private Security Industry Act 2001, which sets up a regulatory regime for the private security industry. These amendments insert references to Northern Ireland legislation into the Act, which has recently been extended to Northern Ireland. The amendments will ensure that the Act operates in Northern Ireland as it does in the rest of the United Kingdom.

Legislative Amendments

The first amendment relates to an exemption in section 4 of the Act for those working in certain sports grounds from any requirement to hold a licence under the Act. The exemption does not apply in Northern Ireland as it is defined by reference to the Safety of Sports Grounds Act 1975 and the Fire Safety and Places of Sport Act 1987, neither of which extends to Northern Ireland. The amendment will extend the exemption to Northern Ireland by adding references to the Safety of Sports Grounds (NI) Order 1976, which is the equivalent Northern Ireland legislation.

This Exemption from licensing applies to in-house employees when carrying out duties in connection with their employer's use of a certified sports ground or certified sports stand for purposes for which its safety certificate has effect. Employees of a visiting team to such premises are also exempt provided that the visiting team has a certified sports ground or stand.

The second amendment relates to Schedule 2 which lists the various activities that can be designated under the Act (the designation triggers the requirement to hold a SIA Licence). One of the activities listed at paragraph 8 of Schedule 2 is the work of door supervisors or other security personnel in licensed premises. The definition of licensed premises in paragraph 8(2) of the Schedule currently only refers to licensed premises in England and Wales and Scotland. The amendment will add references to licensed premises in Northern Ireland, ensuring that those working in Northern Ireland are also covered by the Act.

Briefing paper from the Federation of the Retail Licensed Trade Northern Ireland

Security Industry Authority/ Door Supervisors

As the representative body of an industry employing some 34,000 people and contributing £1bn to the Northern Ireland economy on an annual basis, the Federation of the Retail Licensed Trade supports the Minister's aims and objectives, requiring Door Supervisors in Northern Ireland to be regulated and licensed.

However as the deadline for compliance with this legislation looms, we are extremely concerned that confusion still remains with regard to the required criminal background checks. With representatives of the SIA still unable or unwilling to commit as to whether these will be carried out in line with the terms of the Good Friday Agreement, stating only that each application will be judged individually.

The impact of which leaves a number of potential problems, namely:

- Individuals, who under the Good Friday Agreement would normally gain exemptions with regard to their criminal history, will have to undergo expensive National Certificate for Door Supervisors training in advance of their licence application, despite the fact that there may be an increased potential of their application being declined. Furthermore, in many cases the cost of this training will be paid for by the employer, who cannot hide behind the same legislation as SIA, and who would most certainly be prosecuted if they discriminated against staff because of an increased potential to have their licence refused.
- The failure to operate within the Good Friday Agreement with regard to door supervisors could see a large percentage of people currently employed in the industry denied an SIA licence and therefore denied employment. Furthermore the exclusion of a considerable number of people who are currently employed within the industry will lead to a shortage of door supervisors and leave premises without the level of supervision required.

In addition the Federation would also like to raise the issues of:

- The burden of additional cost of non front line licences (£245 per company director) being placed on an industry which is already under extreme pressure, with many pubs fighting for their very survival (see attached Members Survey April 2009).
- The loss of highly skilled staff that as a result of the license fee (£245) will leave the industry. As they only work one night a week and it not would be economically viable for them.
- Failure to include in house door supervision within the original legislation and the proposal to have this corrected in September, parliamentary time allowing.

This position has created a wait and see attitude, with business deferring the cost of training until they see the legislation actually in place. Giving rise to the potential that a large number of door supervisors will not be trained and licensed by the proposed December deadline. A position the Federation do not support, but understand, considering the large costs involved and the current economic climate. We would therefore question the appropriateness of the December deadline date with regard to in house door supervision.

Briefing paper from North Down Borough Council

Date of Committee Meeting – 8th June 2009

Representative: David Brown, Borough Inspector

Representative Background

I have been the Licensing & Regulatory Services Manager (Borough Inspector) with North Down Borough Council for 25 years. In that capacity I have been responsible for Entertainment Licensing, gaming legislation, enforcement of bye-laws and the introduction and administration of the Council's Door Registration Scheme.

I am also the Chairman of the Institute of Licensing – Northern Ireland Branch. The Institute's aims are to improve the professionalism of those in the public and private sector involved in licensing matters through education, training and the dissemination of knowledge..

Previously I have served on a sub-group of the Northern Ireland Licensing Forum, which considered a single door registration scheme in Northern Ireland.

1.0 North Down Door Registration Scheme

1.1 This scheme was first established in April 2002 as part of an initiative to improve the Night Time Economy and the safety of people frequenting the Town's night spots. The scheme is still in operation but is likely to close by December 2009.

1.2 Under the North Down Scheme a Management Committee was established under terms of reference agreed by the Borough Council.

1.3 The Management Committee consists of representatives from:-

- Local licensing trade
- Councillors
- PSNI Officers
- Door Supervisors

1.4 The scheme covers all Door Supervisors employed at premises licensed for Entertainment and where alcohol can be purchased.

1.5 Premises are not required to employ supervisors, but if they do they must be registered.

1.6 A Door Supervisor is defined as any person responsible for the maintenance of order within licensed premises.

1.7 To gain registration all applicants must

- Agree to a criminal record check
- Complete approved training

Pay an application fee of £30.

- 1.8 On receipt of an application, the Council will request a copy of the applicant's criminal record. This is then forwarded to the PSNI for their comments.
- 1.9 If the PSNI are satisfied with the applicant they will advise the Council and the applicant will be registered on a temporary basis until they can complete an approved training course.
- 1.10 Temporary Registration lasts for up to 6 months and allows a door supervisor to work under the supervision of a Door Supervisor holding full registration until a training course is available.
- 1.11 If the Police are not satisfied with the criminal record, this will be reported to the Committee who will either:-
- Grant the registration; or
 - Refer the applicant to a selection panel
- 1.12 A Selection Panel consists of 3 members of the Committee. They have the power to hear representations from the application and subsequently to either grant or refuse an application.
- 1.13 An applicant refused registration can appeal the decision to an Appeals Panel.
- 1.14 Registrations are valid for 3 years and to renew a Registration an applicant must complete a new criminal record check and complete refresher training.
- 1.15 The Scheme also has a disciplinary process whereby a Door Supervisor, reported either by the public or by the PSNI for a breach of the Code of Conduct, can be brought to a disciplinary panel.
- 1.16 A Disciplinary Panel can either take no action, issue a reprimand, suspend or revoke a registration.
- 1.17 All applicants must comply with a Code of Conduct, which requires them to not drink alcohol on duty, wear their ID, be welcoming to customers etc.

2.0 Councils View on Proposed Legislation.

- 2.1 Whilst we would support and recognise a need for greater control within the Security Industry, there are a number of concerns regarding the proposed legislation.
- 2.2 To be effective the new legislation must be enforced. At present there would be concern that the SIA do not have the resources to provide effective enforcement throughout Northern Ireland.
- 2.3 The SIA consider that the Councils will have a monitoring and reporting brief and the PSNI an enforcement role (probably the main enforcement role) under the Order. Councils are being asked to attach a condition to all Entertainment Licences making it an offence to employ unregistered door staff. This would give Council the power to enforce the 2009 Order against premises owners. Councils would prefer to have direct enforcement powers under the Order.
- 2.4 The cost of a licence is high – potentially around £400 including training. All of the Door Supervisors in North Down only work part-time, mainly on Friday and Saturday night. This will be a considerable cost to them both financially and in time when attending the required training.
- 2.5 Council has met with the SIA and the Door Supervisors regarding the new scheme. The Door Supervisors are concerned that their views in the new scheme have not been heard and the scheme is too expensive.
- 2.6 The Council has a Registration Scheme, which was established to improve the safety of people in the Town Centres at night. If the new scheme reduces the number of licensed door staff then this could have an impact on the evening economy.

- 2.7 There is concern regarding the criminal records checks in the light of the number in relation to offences committed before the Good Friday Agreement. These offences will at present mean that those offenders will not be able to acquire a licence. I am aware that this will have a major impact in other parts of the Province such as Belfast and Londonderry in particular.
- 2.8 The additional cost that smaller licensed premises owners may incur if they need to be registered to control their own premises or people working for them. Currently in North Down the Registration Scheme only relates to Door Supervisors.
- 2.9 The SIA proposal covers a wide range of security activities, but it seems to be overly complicated and many premises owners are confused as to what they need to do to comply.
- 2.10 There are concerns that the SIA can actually deal with the level of application within the present timescales.
- 2.11 The lack of a general appeal procedure seems to be unfair and more so as all cases will be heard or considered in GB. The provisions need to reflect the local perspective and needs.

Briefing paper from Belfast City Council

Report to the Ad Hoc Committee on:

Private Security Industry(Northern Ireland) Order 2009

Introduction.

The Council welcomes the opportunity to address the Ad Hoc Committee; however because of the time constraints this report represents the views of officers of the Council and has not been subject of debate by elected Members.

A briefing report was taken on the impending legislation to the Licensing Committee of the Council on 18 March 2009. At that committee there was some discussion and generally Belfast City Council welcome the introduction of the SIA into Northern Ireland as it will bring a unified licensing regime for Door Supervisors.

Questions from the Committee to the Council

The Ad hoc Committee asked the Council two questions which we have answered below.

a) **The regulation and training of doorkeepers and equivalent security staff which is currently or was recently operated by Belfast City Council.**

Belfast City Council's Door Supervisors Registration Scheme was set up in September 2002 following a successful pilot. It was designed to help establish professional door supervisors who could play an important role in creating a safe environment for those visiting pubs and clubs across Belfast. Door staff can also contribute to reducing under-age drinking and anti-social behaviour. There was no national scheme in operation at that time and some other councils, North Down & Coleraine had/have similar schemes. (see separate document for more background information)

Because the scheme was introduced through our powers of Entertainments Licensing legislation it only applied to those premises with Entertainment Licences who use Door Supervisors and could therefore be enforced as an Entertainment Licence Condition.

The Council's scheme was developed in partnership with the PSNI, the Federation of Retail Licensed Trade and in consultation with other groupings.

Any person, who wanted to be a Door Supervisor completed a minimum of 14hrs of accredited training, passed a 1hr examination and had a criminal record check carried out.

The Council does not decide on the suitability in relation to the criminal evidence check. The decision on whether a person was acceptable to be a Door Supervisor was made by the Licensee or Service Provider of the venue, where the Door Supervisor is going to work, after they are made aware of any criminal convictions. The Licensee or Service Provider must be satisfied that the prospective Door Supervisor is not a risk to the public or likely to exploit opportunities for illicit gain.

If the Door Supervisor wants to move to another employer they must reapply to the Council for a new licence and the new employer must again satisfy themselves on their suitability. The issue has always been that employer X may have a different threshold of satisfaction than employer Y. We understand that the SIA scheme will address that issue as any licence granted will be valid across the United Kingdom

Currently there are 600 registered Door Supervisors in Belfast, the majority of who only work one or two nights a week.

b) What is the Council's view on the proposed legislation due to come into force later in 2009?

The Council's views are confined to those aspects of the legislation which relates to door supervisors only and not the full implications of the legislation based on the SIA licensing scheme and its impact in Northern Ireland.

The Council welcomes the introduction of SIA licensing as it will allow Door Supervisors, once licensed by the SIA, to work anywhere in the U.K. and they will be free to move from venue to venue. It will also be enforced in all Council areas and bring a degree of uniformity of application and enforcement.

Door Supervisors will have a standardised level of training and assessment and as such, employers will know that the person they employ has received proper training and that a rigorous assessment of the person's suitability has been carried out by a UK wide licensing body.

However, the Council has a number of concerns which are detailed below:

1. The SIA have indicated that they would like the Council's Entertainment Licensing Conditions to reflect the need for Door Supervisors to be Licensed under their scheme. Whilst this would help ensure compliance, we would need to look at the possible legal implications that this may impose on the Council.
2. The Council will need to consider whether it wants to partner with the SIA in enforcement of Door Supervisors in any other way.
3. It is expected that The Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 which will bring in-house Door Supervisors under SIA Licensing will be in place by September 2009; this does not allow much time for in-house door supervisors to apply for a SIA Licence, if they are required to be licensed by December 2009. We have some concerns about this and the Council has raised this with the SIA and suggested that more time be allowed for in-house licensing e.g. to the 1st April 2010. This is to ensure a smooth transition and that we don't have a situation where we have unregistered supervisors on premises because of time constraints.
4. If The Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 is not in place for whatever reason, the Council will need to continue running our Door Supervisor Scheme in parallel to the SIA licensing requirements. We would need an early indication on this to enable us to continue to maintain our system.
5. The Council has concerns regarding the cost of a SIA licence and the cost of additional training which some Door Supervisors are required to undertake. Given that most Door Supervisors only work one or two nights a week for a small amount of money, these additional costs are putting a large financial burden on the industry.
6. Event Stewarding has generally employed students. There will now be a requirement for some stewards working at outdoor events to be SIA licensed as Door Supervisors or even have a Close Protection licence, there is a lot of confusion over which staff will need to be licensed and there are issues over the cost of training and licensing. We understand that SIA are looking at this issue.
7. The Council has facilitated interested parties and officers from the SIA to examine the criteria they apply in deciding whether to grant a licence regarding criminal convictions. There is an issue in relation to offences that were conflict related and pre-date the Good Friday Agreement and how they will be taken into account when considering the whole of a person's criminal record. The Council has estimated that there are well over a 1000 people employed as Door Supervisors in Northern Ireland who may be affected by this issue. The Council are assured that the SIA are very aware of this issue

and are looking at measures as to how they take into account conflict related offences and the impact this will have on the industry.

Trevor Martin
Head of Building Control

Paper from Belfast City Council on the Belfast Registration Scheme

In the late 90's we had been considering setting up a scheme for some time and extensive research into existing schemes and the legal implications of introducing registration was carried out. Our legal opinion was that a scheme could be incorporated into the conditions of an entertainments licence.

The general consensus of opinion within the industry was positive towards registration of door supervisors - not only from the bar owners but from doormen themselves, many of whom wanted to raise their image and gain respect for the undeniably difficult job they had to do.

The police were also extremely keen to see a scheme up and running because they saw it as assisting them in reducing the number of alcohol related crimes which were placing ever greater pressures on their reducing resources.

For Belfast we saw the scheme as a major contributory factor in improving the image of a profession which has thus far been less than well respected. By raising standards of competence in areas such as customer care, conflict resolution, drugs awareness, first aid and safety matters we felt that registered door supervisors could play a vital role in making Belfast a safer and more enjoyable place for a night out. This initiative also linked in well with one of the main aims of the Council as a whole which is to provide civic leadership.

Officers from Health Protection and Building Control formed a partnership with the RUC (now PSNI) and the Federation of the Retail Licensed Trade (FRLT) to develop a pilot door supervisors registration scheme.

The pilot scheme was introduced in the Donegall Pass police Sub-Division area from April 2000 - March 2001, with Licensees and doormen being asked to voluntarily participate in the scheme.

The pilot scheme involved an assessment of the suitability of the applicants for registration and required applicants to complete a 12 hour training course run by Castlereagh College and which was accredited by the British Institute of Inn Keeping (details of the final registration process are attached). Officers from the Dept. along with representatives of the police, FRLT and the college delivered the course. Successful completion of an exam at the end of the course resulted in the award of the door supervisors national certificate.

At the end of the year long pilot the scheme was evaluated by all partner organizations and, having proved successful, was then introduced throughout the City.

To do this Belfast City Council, at their meeting of 2 September 2002, amended the 'Rules of Management for Places of Indoor Entertainment in the City of Belfast' to introduce conditions of licence which requiring Door Supervisors to be registered with the Council. The scheme applies to premises holding an Entertainment Licence, such as pubs and night clubs, where Door Supervisors are employed.

The Registration Procedure (Please refer to the “Quick Guide” flow chart)

All Door Supervisors

- 1.0 A door supervisor is defined as ‘a person employed by any person responsible for the management of any licensed premises or event, who has the authority of the owner, licensee, manager or organizer, exclusively or mainly to decide upon the suitability of customers to be allowed on those premises, and/or to maintain order and public safety.’
- 1.1 For each Door Supervisor, the Licensee/employer should complete a criminal record check consent form (copies available from Belfast City Council) and submit this to Mr Stephen Hewitt, Belfast City Council, City Hall, Belfast. Mr Hewitt is an officer nominated to receive such information and he will send these consent forms off the PSNI Criminal records Office. The information returned to him will be treated in the strictest confidence.
- 1.2 The Council’s nominated officer will then consider the returned records making reference to the Home Office Guidance and the Rehabilitation of Offenders Order
- 1.3 If the nominated officer has concerns regarding relevant criminal convictions then he/she will meet with the Licensee/Service Provider and discuss the issues. The Licensee will then be asked to consider this information and to draw on his own knowledge of the individual along with any information he may have on previous employment etc. and after consulting with the individual concerned and completing the personal history record form, decide on whether he/she is considered suitable to work as a door supervisor.
- 1.4 In deciding whether a person is suitable the Licensee/Service Provider should take into account the nature of the offence, how long ago it was committed and any other relevant factors.
- 1.5 All Door Supervisors and relevant Managers who are considered “suitable” should then complete a training course and examination accredited by the British Institute of Inn Keeping or other nationally recognised awarding body acceptable to the Council.
- 1.6 Once the Door Supervisor has received his/her training certificate, the Licensee/Service Provider should submit to the Council a completed application form (copies available from BCC). This will contain the name, age and address of the door supervisor, confirmation that appropriate training has been carried out and a declaration by the employer that the individual is considered suitable to work as a door supervisor. Where there are unspent, relevant convictions and the Licensee/Service Provider still considers the door supervisor to be suitable, he/she must give an explanation of why they have come to this conclusion on the registration application form
- 1.7 The application form should be accompanied by the registration fee of £30.00, two passport sized photographs and the original training certificate (signed on the reverse by the respective door supervisor)
- 1.8.1 BCC will then provide each registered door supervisor with a badge which should be worn at all times when they are on duty.
- 1.9 Registration will need to be renewed every 3 years and at that time the Licensee/Service Provider shall be required to submit further Criminal Record consent forms for each Door Supervisor. Refresher training may also be required.
- 1.10 Each licensee will be required to keep a duty log with details of all door supervisors during each shift. BCC has also produced a template code of conduct for Licensees/Service Providers to adapt and develop.
- 1.11 When a registered door supervisor moves to another employer in the Belfast area then that employer will need to carryout steps 1.1 to 1.4 and then complete a transfer form and submit this to BCC along with a fee of £10.00.

- 1.12 BCC Officers will monitor the participating premises to ensure they are complying with the terms of the scheme.

New Employees

- 2.0 Prior to commencement of employment temporary registration will be available for new employees on submission of a Criminal record consent form. Licensees/ Service Providers will then have a period of 6 months to obtain full registration. An administration fee of £10 will apply for temporary and a further £20 for full registration
- 2.1 In respect of employing new door supervisors, Licensees/employers are asked to comply with the recommendations of British Standard 7960:1999 'Door supervisors/stewards - Code of practice'. (Licensees shall be advised that compliance with the BS does not of itself confer immunity from legal obligations).
- 2.2 The Licensee or, in the case of a company, organisation or individual providing security services to the licensee ('the Service Provider') should ensure that they have made every endeavor to ensure that the integrity and quality of each door supervisor they employ has been established and is maintained throughout their employment.
- 2.3 The Licensee/Service provider should not knowingly employ persons whose history indicates that they would in any way put the safety of the public at risk or would be likely to exploit opportunities for illicit gain. The Licensee/Service provider will therefore be required to keep records of regarding their details, employment and character history etc. for every door supervisor which they employ.

Briefing paper from Northern Ireland Association for the Care and Rehabilitation of Offenders

June 2009

Northern Ireland Association for the Care and Rehabilitation of Offenders. (NIACRO)

Our Mission

NIACRO works to reduce crime and its impact on people and communities.

What does this mean?

It means our work is focused on making a unique contribution to the development of a society, in which the rights and needs of everyone, including offenders, are equally respected.

We offer a range of services aimed at meeting the needs of offenders, ex-offenders, and the families of prisoners, young people and communities.

As a key voluntary organisation working in the criminal justice system, NIACRO also believes we have an important role to play in developing public policy through evaluating our work, contributing to consultations and regularly meeting senior policy-makers to report on our experiences.

Employing ex-offenders

A primary aim of NIACRO is to ensure ex-offenders achieve employment. Jobtrack progresses individuals into the labour market as a result of employment focused interventions. We also work with employers to reduce the barriers faced by those with a conviction.

Jobtrack

Many of the over 100,000 people in Northern Ireland with convictions (the figure excludes motoring offences) got those convictions for minor offences and few people with convictions pose a serious risk of harm. However, they can all face discrimination when they apply for a job.

- NIACRO's Jobtrack employment programme is self-run and supported by Probation Board NI (PBNI) and NI Prison Service (NIPS.)
- Jobtrack engages over 600 unemployed adult offenders annually.
- In the last financial year (2008/09), we received 944 referrals.
 - 78% of clients were rated as either a medium or high risk of re-offending
 - 71% of clients highest level of education on entering the programme was level 1 or below. Whilst on the programme, Jobtrack clients attained 474 qualifications.
 - 9% of clients went into training on leaving the programme
 - 54% of clients that completed the programme went into employment.
 - 86% of all clients were either single, divorced or separated

- The programme is based on research that demonstrates a link between unemployment and offending. By supporting offenders to increase their employability skills and access the labour market, Jobtrack's activities contribute to an overall crime reduction strategy through reducing crime and the fear of crime.
- The partnership model enables Jobtrack to attract significant European funding into the Criminal Justice System that adds value to both the Resettlement Strategy, which is the responsibility of NIPS and Community Sentence Management, which is the responsibility of PBNI.
- Jobtrack is based on an innovative model of intervention that incorporates:
 - Individual case work and support in the management of offenders;
 - Individual and group work with employers;
 - Linking and brokering opportunities within local communities through existing Community Safety partnerships;
 - A peripatetic service across Northern Ireland linked to the 3 prisons and all Probation Board offices;
 - Mentoring support and a range of other motivational techniques.
- It is challenging work. A recent evaluation demonstrated that those engaging with such services are disproportionately concentrated in the significant long term unemployment categories.
 - Almost 80% are considered to be long term unemployed;
 - More than 50% very long term category (2 years plus)
 - 46 % out of work for three years or more.
- Research consistently demonstrates that educational background and qualifications are low and the majority of offenders engaging in the services are assessed as either medium or high risk of re-offending.
- There is also a proven tendency for employers to be worried about recruiting individuals with convictions. Moving such individuals towards positive employability outcomes is a substantial task.
- Much of the work of Jobtrack is underpinned by policy comment and engagement that seeks to review and amend either specific legislation or recruitment practices to ensure fair consideration of individuals with convictions.

Working with employers

NIACRO works with employers to encourage fair treatment for job applicants who disclose criminal convictions. Employers who want to promote their commitment to good practice can apply for accreditation of NIACRO's Employment Equity Award.

- NIACRO offers a free, confidential, advice service to employers and job applicants.
- We also work in partnership with Business in the Community to develop our links with employers from a wide range of sectors.
- Jobtrack run training workshops on the fair recruitment of people with criminal convictions. The objective of the training is to give employers and organisations an opportunity to consider the benefits of having fair recruitment practices in relation to people who have criminal records. It covers:
 - Concerns / issues for employers and applicants;
 - Understanding the Rehabilitation of Offenders legislation;
 - How to facilitate disclosure of convictions;
 - Dealing with the information given to you;
 - Looking at the risk issues when assessing relevance.

NIACRO services

We are also a voluntary organisation and offer a number of services:

Working with Children and Young People who offend –

- Child and Parent Support (CAPS) - intensive support services to families whose children (aged 11 to 13) are at risk of taking part in anti-social/offending behaviour
- Independent Visitor Scheme - a befriending and independent support service to young people who are “looked after” by the Trusts and who have little or no contact with a parent or parental figure.
- Youth Employability programme supports young people aged 15 to 18 who are involved with the youth justice system, to undertake education, training or employment.

Working with offenders and ex-prisoners –

- APAC (Assisting people and communities) - helps people to deal with problems which may have led to difficulties with neighbours and the community.
- Base 2 - a crisis intervention and support service for people who may be at risk of violence or exclusion from the community, and for their families.
- Jobtrack
- Working with employers

Working with Prisoners, Families and their children –

- Advice Centre - the only service offering advice and support right across Northern Ireland to prisoners’ families, and released prisoners and offenders in the community. We provide information, advice and representation on subjects like benefits, housing and debt.
- Family Links - programme to help people cope with having a family member in prison.
- Magilligan and Hydebank Woods Visitors Centre - Contributing to the Family Links programme, NIACRO staff based at Magilligan and Hydebank Wood provide a service for people visiting prisoners.

Our future

In line with agreed NIO public sector agreement targets and our own organisational values, NIACRO will contribute to the future of Community Safety Partnerships and also work in assisting the reduction of the levels of:

- Serious violent crime;
- Anti-social behaviour incidents;
- Re-offending.

However, there is now a unique opportunity for our organisation to promote informed debate within the proposed devolution of policing and criminal justice.

We advocate for change, by contributing to the development of a criminal justice system that reduces crime and its impact, achieved through the effective use of resettlement-led programmes.

Our commitment is to meet the needs of offenders, prisoners and their families and the wider community through the innovative use of resources to reduce crime and its impact on prisoners, effectively resettling offenders. NIACRO aims to assist individuals, families and communities to be treated fairly and with respect.

Submission from the British Security Industry Association

The British Security Industry Association

The British Security Industry Association (BSIA) is the trade association covering all aspects of the professional security industry in the UK. Its 570+ members provide over 70% of UK security products and services and adhere to strict quality standards.

BSIA represents security guarding, door supervision and close protection companies whose employees will be subject to regulation.

BSIA approach on regulation

Regulation of the private security industry has been successfully rolled out across England, Wales and Scotland since 2004 under the watchful eye of the regulator - the Security Industry Authority (SIA). The BSIA called for the regulation of the private security industry for a number of years and has been supportive of regulation in England, Wales and Scotland and is now advocating its roll out in Northern Ireland. However, the legislation covers individuals not companies and this is an area of concern.

In-house

The BSIA is firmly of the view that the omission of in-house security services within the legislation was and remains a detrimental omission of the framework provided by the Private Security Industry Act 2001. Attached is the BSIA's recent submission to a consultation in England and Wales which outlines the reasons why the Association feels in-house licensing is imperative.

Registration of security companies

Under the new licensing regime, we understand that the provision of the Justice and Security (Northern Ireland) Act 2007 will cease and thus the licensing of companies will no longer take place. The BSIA feels that licensing of individuals does not provide a comparable safeguard to the licensing of companies. The Justice and Security (Northern Ireland) Act requires screening of those in control of the business. However, the new licensing regime has no such safeguards in place and therefore risks diluting the protection that the public is offered. We are also calling for the registration of companies in the rest of the UK.

Approved Contractor Scheme

The Approved Contractor Scheme (ACS) may be viewed by some as a potential solution to the issues raised above. However, as a voluntary scheme it cannot have the same effect as compulsory licensing.

The BSIA also feels that the ACS is not working as well as it might in the rest of the UK. To help buyers and decision makers there should be differentiators between the 600+ approved contractors as that number of companies working within the same market cannot be operating to the same standards.

British Standards need to be embedded into the ACS as we believe that British Standards should be right at the heart of the British security industry. The BSIA is in consultation with the Security Industry Authority to that effect.

For further information from the BSIA on the issues raised, contact Tim Thomas, BSIA Director of Administration and Legal Services on 0845 389 0889 or via email t.thomas@bsia.co.uk

British Security Industry Association submission to the Security Industry Authority regarding the licensing of “In House” Security Services.

1. The BSIA is firmly of the view that the omission of a requirement that security services provided other than under contract was and remains a detrimental omission of the framework provided by the Private Security Industry Act 2001, (The Act). This submission aims to set out some of the reasons for this.
2. The Parliamentary research paper 01/34, published on 26th March 2001, set out the BSIA’s concerns over the exclusion those who were employed and provided security services from The Act, (so called in-house). The BSIA’s view was summarised at that time as, (at page14),

“Three main issues have been raised by BSIA members. Firstly, the absence of licensing for in-house security officers. It is felt that this could encourage a move away from contractors and have a negative impact on the quality of personnel working in-house”.
3. The White paper proposed that the whole of the manned guarding sector should be licensed, and said, “The Government believes that to exclude in-house security personnel from the scope of licensing would create an **unacceptable loophole** and reduce confidence in the system”. At the time of the second reading debate in the House of Lords Lord Bassam explained the rationale for the current position in the following terms,

“These [in-house] companies will already have satisfied themselves about their employees, and the Government do not wish to foist onto them an additional layer of checking where it is not-necessary”.

His Lordship however then went on to draw a distinction between it seems the generality of those who work as employees and door-supervisors. He for reasons of the protection of the public, eliminating any elements of criminality and for reasons of the levels of responsibility placed upon door supervisors argued that all door-supervisors where under a contract of service or not should be licensed.

4. Similar arguments were then deployed to argue that there should be another exception to the rule in the case of vehicle immobilisation. Alun Michael MP said,

“Unscrupulous wheel clamping operators are preying on motorist and cause nuisance to the public. In response to our consultation, there was overwhelming support for regulation of wheel clamping on private land”.
5. It seems therefore that the for reasons of nuisance to the public, protection of the public or in cases where the guards have a particular level of responsibility those working in-house so the government argued should be licensed.
6. Today, the arguments deployed and accepted when The Act was first conceived regarding the licensing of all those who provide security services are stronger than ever. In-house security personnel are not subject to any compulsory independent audit. The experience of the BSIA, which can be supported, is that there are elements of in-house work that have been left behind by progress made by the security industry since the implementation of The Act. Local Authorities and major public bodies simply do not comprehend when they operate without a licence and when one is required. This had lead public Authorities to a situation where they may have inadvertently acted in breach of The Act. In the case of

those who are regulated, there is the SIA who have a clear statutory authority with clear statutory powers to deal with what are not mere regulatory breaches but criminal offences. For those who in general are not regulated, and whose activities are largely exempt there is no independent method backed by law of supervision. The existence of two methods of operation for organisations that operate both inside The Act and are partially excluded by it undermines The Act and reduces confidence in regulation.

7. Ironically, elements of in-house security services not currently regulated present a far greater potential risk to the protection of the public than do door-supervisors or vehicle immobilisers who do fall within The Act. Employed security guards protect parts of the nation's critical national infrastructure and are entrusted with far greater levels of responsibility in protecting the public than are door supervisors and yet door-supervisors it was said had to be licensed. Such guards are subject to only a compulsory audit by their employers of their right to work. They are not subject to any compulsory vetting or training. The private security industry has widely adopted British Standard BS7858 in the vetting of employees, which incorporates a 5-year employment history check. Many BSIA members go beyond this and vet for 10 years. In contrast, the employed commercial sector, in recognition of the volume of crime committed by in-house staff has developed in recent months the National Staff Dismissal Register, (NSDR) as a means of reducing theft committed by employees. Theft by staff accounts for just under £500 million each year. The standards of basic vetting are in comparison to those operating under BS7858 low and inadequate and the dismissal register is a recognition that commercial vetting standards are either not fit for purpose or not widely enforced. Such standards would not be accepted in the regulated sector.
8. To summarise, in-house security guards bear much of the burden of protecting the public, public authorities, and the nation's infrastructure. It cannot with any credibility be argued that in-house guards bear any less responsibility to the public than do guards who work under contract. Whilst the SIA acts as a statutory regulatory with powers to issue and refuse licenses, an in-house security guard is free to move between employers who are under no obligation to satisfy themselves as to his suitability and training. This may present itself for example when a guard leaves the contract sector as they fail to pass BS7858 vetting but who is then free to join the employed sector. The NSDR illustrates that even checks on identities in the employed sector may be carried out to a minimal standard. The BSIA readily acknowledges that there are many in-house providers of security services who are committed to high standards of training, supervision and vetting. There are however no means of enforcing the standards who some voluntarily accept on others, and still less any means of regulating such standards. It is the experience of the BSIA that many in the employed sector support the extension of regulation and indeed there are some who employ licensed guards where there may be no statutory requirement to do so.
9. Recent events in the financial sector have illustrated an important lesson of the consequences of a lack of regulation. Whilst a sector may operate for a time adequately and may seem to be able to self-regulate, the weaknesses of such a system are inherent and surface when those who had the power to regulate discover that they then have no control over the sector if and when things go wrong. Currently, there is no control over in-house security.

In addition to the above we have the following specific points that we wish to raise in answer to your questionnaire,

Questions 1, 2 and 4:

We have addressed these questions together as they all ask broadly about the increased risks to the public and others that may occur if in-house guards are not licensed.

We have some difficulty in fully answering this owing to duties of confidentiality which apply to several of the questions, however there are specific examples of in house security guards colluding with criminal elements that we are aware of. On request we can provide the specific example. Such situations have occurred when the guard may have become vulnerable to duress either as a result of being known to the offender, (which occurs where the guard is drawn from the same area as the offenders concerned and which in our experience is a reduced likelihood where the guard is supplied under contract and unknown

to the local community), or where the guard has become vulnerable owing to their personal circumstances where for example the guard is in debt. Similar considerations currently apply to other employees, such as cashiers at checkouts who out of duress or dishonesty deliberately fail to ring into the till a number of items. BS7858 vetting can assist in identifying guards who may be vulnerable to pressure. Such risks are to the public and also to employers both in the licensed and unlicensed sectors. In the in-house sector there are no independent checks that are required of the operators of undertakings that provide their own security. Our experience is that in-house guards in some sectors, for example retail, frequently provide what is in effect an informal contract service but without being licensed.

Question 3.

This is not a question that the Association can assist with for commercial reasons.

Question 5a.

This sector bears one of the highest risks of all. It is of paramount importance that all those who work within it, whether they be under contract or in-house, observe the highest standards in the industry. There is the clear risk that a guard may move from in-house to contract, or vice-versa, and who may present a risk that is not identified. By enforcing the same standards of training and vetting in both sectors there is clearly a greater opportunity for guards who are unsuitable to be identified and excluded from the industry as a whole. Such guards bear great responsibility and may be the subject of threats of violence or blackmail given that they are in a position of trust. We would say however that the structure of the contract sector, who by far bear the responsibility for the majority of the money in circulation, is such that licensing of ancillary activities such as the operation of CCTV at their premises will do nothing to further protect the public and would be unnecessary.

Question 5b.

There may be a consequence in terms of increased costs for the in-house sector, however if the sector is currently operating to similar levels of supervision, training and vetting to the contract sector then the impact on the in-house sector will be small. If the sector is not currently operating to such standards then the necessary restructuring would clearly be an indication that the sector would benefit from regulation.

Questions 6a and 6b.

Close protection operatives are deployed in the most sensitive of areas; they may find that valuable and highly confidential information is available to them and also provide a highly personal service. Given the levels of responsibility and also vulnerability of those who engage the services of a close protection operative we argue that those who provide such services are as least as deserving of a statutory regime of supervision as vehicle immobilisers and door supervisors.

Questions 7a and 7b.

In our experience there are clear deficiencies in the way in which in-house operators currently use CCTV. In the case of a number of large local authorities their operatives are clearly unaware of the principles of the Data Protection Act, the current edition of the Information Commissioner's code or their own internal codes of practice. The material that they generate is of questionable use and limited benefit to the public.

Questions 8a and 8b.

We refer to our answer to questions 1, 2 and 3.

Questions 9a and 9b.

Key holders frequently provide the first response to an alarm activation and are in a unique place to preserve a crime scene and may encounter offenders. Although the activity may be seen as relatively innocuous it requires a professional, trained response.

Question 11.

The answer we suggest is to consider what the employee is primarily employed to do. Looking at the job description and job title in most cases is sufficient. A sales assistant may have a secondary duty to protect property but their primary role is to assist in the selling of goods and services. A security guard may have secondary responsibilities, such as health and safety matters, but their primary role is the guarding of property and premises. There may be occasions when the roles are more evenly balanced, but these are likely to be in a small minority of cases. In general in-house employees are employed for a largely defined purpose which is usually easily identifiable by their job title.

Question 12.

Our response is that this will be rare, and that most in-house key holders have a substantive role that key holding is at best ancillary to and more likely entirely unrelated to. In the rare cases that key-holding is the sole role then they are in effect in need of the skills of a security guard and should therefore be trained, vetted and licensed to this standard.

Question 13.

This is unlikely. There are already extensive voluntary arrangements that exist in the financial sector that failed to adequately protect the public. Perhaps an analysis of any voluntary scheme should examine how such a scheme may be enforced and what sanctions would exist for a failure to join such a scheme. In effect, such a scheme would be a diluted version of the current Act. Employers would have little incentive to fund such a scheme that would be unlikely to provide the same protection to the public that an enforceable regulatory scheme would.

Question 14.

This question perhaps highlights the difficulties with such a scheme – employers are unlikely to want such a voluntary scheme to extend to those who currently covered by section 3(2) of The Act as they themselves would then need to be vetted and trained with the associated costs. However merely having a scheme that covered front line guards would be impracticable. Our experience of some public authorities is that whilst the front line guards may be aware of their limitations other supervisory and more senior staff are unaware of when in-house staff may need licensing under the current law.

Question 15.

The bulk of staff employed in-house are employed by public authorities.

Question 16.

No. Our experience is that there is as great a need to licence in the public sector. There are frequently strains felt in the public sector that may lead to the deployment of inadequately trained staff, or to reduce the quality and quantity of training offered. Until there is a defined level of required training, there will be no consistent standard across the public sector.

Questions 17 and 18.

There may be an argument that a very limited number of public bodies should be exempt – broadly those involved with the security services and similar situations, although even in such cases the current framework

allows such organisations to apply for an exemption on the assumption that there are initially within the regulated sector.

Question 19.

No. Public access is an ill-defined concept and may be almost infinitely variable. Defining it may prove imprecise and lead to unintended anomalies. In any event, those working in private premises should be afforded the same level of protection as those who work in places accessible to the public.

Question 20.

The answer it seems will depend on how much time is spent on incidental security activities and also what the activities are. If a small amount of time is spent on activities that involve a high degree of responsibility and potential risk to people then the activity should be licensed. The solution we suggest is to examine the activity and the length of time spent of that activity.

Northern Ireland Office response to queries raised by the Committee

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

10 June 2009

As part of your current consideration of the draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 (the Order) and in light of evidence offered by officials from the Northern Ireland Office you had asked for clarification on a number of issues.

1. **Clarification of the non-front line licence requirement:**

The Northern Ireland Office requested that the SIA provided guidance on the arrangements for non-front line licences, it is copied below:

The non-front line licence is an important means of raising standards in the industry by ensuring that those individuals responsible for the activities of the organisation and/or for controlling the activities of individuals carrying out front line activity are fit and proper people and are accountable. The non-frontline licence does not require training and this reduces the cost of obtaining this licence compared to a front line licence.

A non-front line licence is required for those who manage, supervise and/or employ individuals who engage in licensable activity, as long as front line activity is not carried out - this includes directors* or partners. A non-front line licence is issued in the form of a letter that also covers key holding activities.

(*For the purposes of the Private Security Industry Act 2001, "director" means executive and non-executive directors, shadow directors, parent company directors and corporate entities holding a directorship.)

If you have a non-front line licence you do not need to get another one if you are involved in another area of non-front line licensable activity (for example: if you are a director of a firm supplying security guards but you also supply vehicle immobilisers, you will not need to get two licences).

Quite often in small organisations managers, supervisors and directors may be involved in front line activity. If this is the case those individuals will need a frontline licence but this will also cover them for non-frontline activities across all sectors.

Other than for individuals who are directors or partners of a business, and where only administrative roles are carried out (e.g. finance or HR activities) and no management or supervisory responsibility for licensable frontline operatives is involved and where no front line licensable activity is carried out then no licence would be required.

Where organisations have layers of management (presumably not relevant to small organisations) only the first line of management and the directors, or partners or employer would need a non-frontline licence. Intermediate managers not performing a first line management role of frontline licensable operatives would not require a licence.

Where people are listed as directors because of their financial stake in a business, but they take no part in the running of the organisation, we would recommend that they resign their directorship. This would remove them from requiring an SIA licence as long as they continue to not direct or run the business. This would not impact on their ability to retain their financial interest, and a licence is not usually required if this is the only involvement.

The SIA are not aware of this having been an issue or significant problem in Great Britain for small companies. Small companies usually have flat management structures few (perhaps one or two) non-frontline roles. For small companies with several family members involved they may often also participate in frontline activities.

2. **The National Audit Office report, October 2008: ‘Regulating the security industry’**

The Northern Ireland Office requested that the SIA provide a response to the concerns highlighted in the report and it is copied below for the committee’s information:

The service history is behind the SIA as can be seen from its web site licensing statistics (see below), in addition the NAO report stated:

“Since it was set up the Authority has introduced regulation into a previously unregulated sector efficiently. Evidence indicates a high level of compliance which has delivered benefits in reducing the numbers of criminals engaged in security activities. The Approved Contractor Scheme is a success. Licensing could, however, have been implemented more efficiently”

The current licensing performance can be seen at our web site <http://www.the-sia.org.uk/home/licensing/stats.htm> where you will find that the figures for April 2009 are as follows:

- 90% of all properly completed licence applications were processed within 40 working days
- 93% of properly completed licence applications from UK and EEA nationals were processed within 33 working days

The SIA published service standard (from our web site) is as follows:

We aim to process 80% of all our licence applications within 40 working days. For applications from UK and EEA nationals our target is to process 80% of licence applications within 33 working days.

Therefore it is very evident that the SIA are exceeding its service standards and the SIA are confident that this current level of service can be maintained.

3. **Has the SIA the capacity to cope with the expected licence applications from Northern Ireland:**

The SIA have provided a response.

The SIA are currently receiving and processing some 4,500 to 5,000 applications per week, and given that our forecast for the total licensable population for Northern Ireland is some 9,500 which represents approximately 3% of the total UK licensable population the SIA do not feel this will cause any noticeable strain on the licensing processes.

Access NI will provide Standard Disclosures to the SIA as part of the licensing process. AccessNI is meeting all of its service standards. For Standard Disclosures the service standard is to deliver 90% of certificates within 3 weeks. For April 2009, the standard achieved by AccessNI was 97.22%. The current average time for the delivery of a Standard Disclosure is 14 days.

4. **Were the options for regulation of the industry reconsidered in light of future devolution of policing and justice?**

The devolution of policing and justice did not materially alter the benefits that could be achieved from SIA regulation:

The over-arching aim of regulation is to reduce offending in the private security industry, protecting people from crime and giving the public greater confidence in the industry. Licensing should reduce the operation of organised criminals within the industry and prevent exploitation, in turn should prevent firms suffering extortion. Expanding regulation to other sectors will help bear down on other issues. For example, regulation of door supervisors could help reduce the incidence of drug dealing and drug use in nightclubs. Providing a form of regulation that puts Northern Ireland on an equal footing with the rest of the UK will enable local companies to compete on a national basis.

5. **How many people currently working within the industry have been convicted for extortion and exploitation?**

Exact figures for convictions for extortion and exploitation for those working within the industry are not available. I would refer the committee to the findings in the fifth report of the Independent Monitoring Commission:

6.11 It is widely and correctly believed that paramilitary groups play some part in the security business. We have received direct evidence of building firms which have been subjected to pressure by so-called security firms, and have suffered extortion as a result. We know too of other examples of paramilitary involvement, such as in providing doormen and event security. Every such instance exposes legitimate operations to pressure.

Guidance issued by OFMDFM

RECRUITING PEOPLE WITH CONFLICT-RELATED CONVICTIONS

Employers' Guidance

4.6 Objective assessments will:

- **focus on a person's abilities, skills, experience and qualifications;**
- **consider the nature of the conviction and its relevance to the job in question;**
- **identify the risks to the organisation's business, customers, clients and employees;**
- **recognise that having a record does not always mean a lack of skills, qualifications and experience;**
- **note that high-quality training, leading to qualifications, is available in many prisons.**

4.7 Assessing records will:

- **always be based in confidentiality and discretion when requesting and handling records;**
- **encourage applicant honesty by stating that applicants will be considered on merit and ability;**
- **not include requests for spent conviction records unless the job is exempt under the Rehabilitation of Offenders legislation;**
- **advise applicants to submit confidential records separately from the usual application form and to a named employee;**
- **comply with data protection law;**
- **ensure access to record information is only on a need to know basis.**

4.8 In making employment decisions organisations should make objective assessments, adopt an open mind and focus on merit and ability to do the job.

5 Considering Conflict-Related Convictions

- 5.1 In this section convictions relate to conflict-related ones.**
- 5.2 Only after interview when the successful candidate for employment has been chosen, should the issue of a conviction, be considered.**
- 5.3 In the case of the Northern Ireland Civil Service a criminal record check is sought after an individual is recommended for appointment. If it transpires that the individual has a record, a statement of disclosure form is issued for completion by the applicant. This provides the opportunity to put the nature of the offence/conviction in context and provide any supporting material eg, testimonials, references etc.**
- 5.4 There are three possible scenarios once a successful candidate has been selected and a record check occurs:**
- if the candidate does not possess a conviction, the appointment is made;**
 - if the candidate has declared a conviction, but the employer considers that it is not materially relevant to the post, the appointment is made;**
 - if the candidate has declared a conviction and the employer considers that it is, or could be, materially relevant, and is manifestly incompatible with the post then the appointment is not immediately offered.**

- 5.5 In the third scenario the employer should make contact with the candidate to explain his/her decision. If the candidate accepts the employer's consideration, the employer may move on to the next highest placed candidate.**
- 5.6 If after explanation the candidate does not accept the employer's consideration, it is recommended that he/she meet with the employer to discuss the issue. The candidate may bring along a representative and may supply supporting evidence in regard his/her case that the conviction is not materially relevant. The applicant should be given the opportunity to make his/her views known regarding the conviction and its relevance, or otherwise, to the post.**
- 5.7 If, after this discussion, the employer continues to consider that the conviction is materially relevant and manifestly incompatible with the post, the candidate may bring the matter to a review panel. The review panel (the modalities of which are set out in section 6) is non statutory. It will receive complaints and concerns raised by individuals. Such complaints and also evidence of good practice will form the basis of an annual report to the Secretary of State on the operation of this voluntary tripartite arrangement.**

6 Tripartite Review Panel

- 6.1 Only if a satisfactory outcome cannot be arrived at through informal discussion between potential employer and candidate should the next step be to refer the matter to a review panel. The panel, which will be non statutory, will comprise representatives of the three parties to this guidance.**

6.2 It will be serviced by a part-time secretariat and will be tasked with considering individual complaints and also cataloguing evidence of good practice. It will be asked to provide the Secretary of State with a detailed annual report on the operation of the voluntary agreement. The operation of the guidance will be reviewed after 18 months. If there is evidence that the voluntary arrangement is demonstrably not working it is the view of the Government that the voluntary arrangement should be put on a statutory basis.

7 Tripartite Endorsement

7.1 It is the agreed view of Government, the CBI in Northern Ireland and the ICTU that this voluntary guidance, which will require detailed working through by employing organisations, represents an important step forward in the reintegration of ex prisoners with conflict-related offences.

7.2 The parties to the guidance also acknowledge that in working through this process, the onus of proving material relevance lies with the employer. Unless the employer can argue convincingly that the conviction is materially relevant and manifestly incompatible with the post, the applicant (who at this stage is, all other things being equal, the preferred candidate for the job) should be offered the post.

7.3 The three parties to this guidance are also of the view that before coming to a decision, the employer should consider carefully the following. Namely that:

- the onus of proof is on the employer to show material relevance;
- the conviction must be manifestly incompatible with the position in question;
- the seriousness of the offence is not in and of itself enough to make a conviction materially relevant; and
- it will only be in very exceptional circumstances that a conviction will be relevant.

7.4 Finally, following the recent Fair Employment Tribunal judgement in *McConkey and Marks v the Simon Community* the Government has initiated, as a matter of urgency, a review of fair employment legislation to consider whether there is a need to amend Article 2 (4) of the Fair Employment and Treatment Order 1998 in the Tribunal words

".....to reflect those changed circumstances [in light of the Good Friday Agreement] and not least to reflect the terms of the said Agreement with its reference to the introduction of measures to facilitate the reintegration of prisoners into the community in the area of employment"

1 May 2007

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Annex

The current legislation

The Rehabilitation of Offenders (Northern Ireland) Order 1978 seeks to ensure that ex-offenders who have not re-offended for a period of time since the date of their conviction are not discriminated against when applying for jobs. The Order enables ex-prisoners to 'wipe the slate clean' of their criminal records at the appropriate time in that they are no longer legally required to disclose to organisations convictions that are 'spent', unless the job they are applying to is covered by the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979. A range of different types of work, occupations, employment and professions are exempted. This includes work that involves access to children, young people and vulnerable people. In such cases organisations are legally entitled to ask applicants for details of convictions, irrespective of whether they are 'spent' or 'unspent' under the Act.

Part V of the Police Act 1997 which is to be enacted in Northern Ireland later in 2007 will allow for the two types of disclosure of criminal records relevant to employers. A Standard Disclosure which applies to posts exempted under the Rehabilitation of Offenders (Northern Ireland) Order 1978 and relates particularly to certain sensitive areas of employment, such as jobs involving regular contact with children and vulnerable adults. The second type, Enhanced Disclosure, applies to posts involving greater contact with children and vulnerable adults. In Northern Ireland this service will be provided by Access Northern Ireland (which will link both to Disclosure Scotland and the Criminal Records Bureau).

The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 is aimed at preventing unsuitable people from working with children and/or vulnerable adults. The Safeguarding Vulnerable Groups Act, which received Royal Assent in November 2006 will extend to Northern Ireland and will introduce a new vetting and barring scheme.

1 Introduction

- 1.1 This guidance is for all employers in the public, private and voluntary sectors. It has been developed by a working group co-chaired by Sir George Quigley and Nigel Hamilton and comprising representatives of Government departments, the Irish Congress of Trades Unions, the Confederation of British Industry and a representative group of ex-prisoners. It fulfils the commitment to the ex-prisoners' constituency in the Good Friday Agreement and also the commitment given more recently by the Government in the St Andrews Agreement.**
- 1.2 The group was tasked, over a year ago, with looking at the impediments to ex-prisoners with conflict-related convictions accessing employment, goods, facilities and services. This guidance focuses on recruitment, in regard this particular group of ex prisoners, but is readily transferable to deal with goods, facilities and services. Separate guidance will be developed and promulgated in regard to goods, facilities and services.**
- 1.3 The guidance is designed to assist employers follow best practice in recruiting people with conflict-related convictions. Those are convictions arising directly from the most recent period of conflict in Northern Ireland. Generally, they are offences listed in the relevant schedules to the various Emergency Provisions (Northern Ireland) Acts pre-April 1998.**

- 1.4 The guidance is not meant to be comprehensive, nor is it meant to deal with every eventuality. The Government recognises that the transposition of the agreed principles underpinning the guidance will be for employing organisations and their human resource professionals.**
- 1.5 In summary, the basic principle arising out of the main report by the working group is that any conviction for a conflict-related offence that pre-dates the Good Friday Agreement (April 1998) should not be taken into account unless it is materially relevant to the employment being sought. Below is a simple, step-by-step guide to be followed by employers in dealing with job applicants who have conflict-related convictions.**

2 Context

"The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, retraining and/or re-skilling, and further education."

The Good Friday Agreement (April 1998)

- 2.1 Figures estimate that up to 30,000 people have spent time in prison due to the conflict in, or about, Northern Ireland. The vast majority were young men when convicted. The Good Friday Agreement recognised the role of prisoners in the peace process and their influence in wider peace building processes.**

- 2.2 Many ex-prisoners, since release, have played active and positive roles in conflict transformation processes within republicanism and loyalism. The importance of these processes has been well documented and evidenced by a number of international studies.**
- 2.3 The report of the ex-prisoners' working group provides personal accounts documenting the experience of this group of former prisoners as they have sought to access employment, facilities, goods and services. It reveals systemic, structural and attitudinal barriers in accessing employment in the public and private sectors; and in accessing goods, facilities and services more generally.**
- 2.4 The report argues that there are significant societal and economic imperatives to address positively the reintegration of ex-prisoners with conflict-related convictions.**
- 2.5 The key principle arising from the work of the group is:**

".....that conflict-related convictions of 'politically motivated' ex-prisoners, or their membership of any organisation, should not generally be taken into account [in accessing employment, facilities, goods or services] provided that the act to which the conviction relates, or the membership, predates the Agreement. Only if the conviction, or membership, is materially relevant to the employment, facility, goods or service applied for, should this general rule not apply"

- 2.6 In other words, a conviction arising from the conflict should not bar an applicant from obtaining employment, facilities, and goods or services unless that conviction is manifestly incompatible with the job, facility or service in question. The onus of demonstrating incompatibility would, in the view of the group, rest with whoever was alleging it and the seriousness of the offence would not, *per se*, constitute adequate grounds.**
- 2.7 The report goes on to argue that where an applicant is ruled out of consideration at any stage he/she should be given the opportunity to outline his/her perspective before a final decision is taken.**
- 2.8 In addition, the report argues that there should be a right of appeal by such an applicant who is denied on the grounds that a sentence was materially relevant. It is expected that it would only be in very exceptional circumstances that such grounds could be successfully invoked. It was also agreed that for reasons of practicality, any changes would not be retrospective.**

- 2.9 It is worth noting that the (then) Mr Justice Kerr argued in a successful legal case by a former prisoner challenging a decision not to grant a taxi driving licence to the applicant:**

*"The Agreement contemplated that mechanisms would be put in place for the accelerated release of prisoners and that those prisoners who benefited from that programme would be reintegrated into the community. It appears to me, therefore, that particular attention should be paid to the fact that a prisoner released under the terms of the Northern Ireland Sentences Act 1998 has been adjudged **not to be a danger to the public.**"*

- 2.10 Whilst this judgement related to those 'risk assessed' and released under the Agreement, the working group view is that this is an important principle on which all conflict-related convictions arising from the most recent period of conflict should be considered.**
- 2.11 The guidance is not asking employers or service providers to give preferential treatment to ex-prisoners with conflict-related convictions; that would run counter to fair employment and equality legislation. Rather, the guidance aims to ensure that such a conviction is not taken into account, unless it is materially relevant to the post or service in question.**
- 2.12 The guidance is seeking to ensure that an ex-prisoner (with a conflict-related offence) is able, in the case of employment, to compete with other applicants on a level basis, and that the employer should, having regard to paragraph 2.9, make his/her decision on the basis of skills and experience.**

2.13 The guidance has been agreed by Government, the Irish Congress of Trades Unions and the Confederation of British Industry. While it focuses on employment it should nonetheless be easily transferable to goods, facilities and services.

2.14 Finally, this guidance needs to be read in conjunction with existing legislative obligations and any new guidance which may be developed from time to time as a consequence of the introduction of a new system of employment-related criminal record checks. A summary of the legislation is provided in the annex to this guidance.

3 The recruitment process

3.1 Whether using online recruitment or more traditional recruitment processes such as advertisement, it is important that the methods of recruitment are applied consistently.

3.2 Online recruitment, also known as e-recruitment, is the use of technology to attract candidates and aid the recruitment process. Surveys have shown that online recruitment in both the public and private sectors has grown significantly with greater use being made of email applications in the last three years. The technology can be used to:

- advertise vacancies – on organisations' websites or job sites;
- deal with the applications – email enquires, emailed application forms/CVs, online completion of application forms;
- select candidates – online testing.

- 3.3** The public and private sector are increasingly using online recruitment to speed up the recruitment process, reach a wider pool of applicants, streamline administration and reduce recruitment costs.
- 3.4** Whichever format of recruitment is used, the fact that an applicant has a conflict-related criminal record should **not play a part until the individual has successfully gone through a selection process**. In accordance with best practice, application forms should normally not require a criminal record declaration except where the job is covered by the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979, because, for example, it involves working with the vulnerable. Only after an individual has been recommended for appointment and only where relevant to the specific post should a record check be undertaken.

4 Weighing up the risks

- 4.1** The evidence shows that in most instances there is very little risk involved in employing an ex-prisoner. The majority of ex-prisoners in work are competent, reliable employees who pose no risk to their colleagues, clients or the business for whom they work. This also holds true, probably to an even greater extent, for those in Northern Ireland with conflict-related convictions.

- 4.2 It is the case that for many in that category, they would not have been imprisoned had it not been for the onset of the most recent and prolonged period of civil disorder and violence that caused so much damage and hurt and shaped the lives of so many during those 35 years.**
- 4.3 It is for this reason that it is always best to consider each applicant on his/her merits. The appropriate approach is to determine whether the person you are interviewing is the best person for the vacancy. If they are, it then becomes a case of determining whether the criminal record is materially relevant or not for that particular post.**
- 4.4 This guidance, whilst addressing ex-prisoners with conflict-related convictions, underscores best practice; namely that the main focus of decision making should be on those offences which are materially relevant in terms of the duties the post holder will be expected to undertake.**
- 4.5 In line with best practice, employing organisations should ensure that recruitment and employment practices deal fairly and equitably with all candidates, including those who have a conflict-related conviction. For example, they might usefully consider the following extract from "Employing people with criminal records" produced by the Chartered Institute of Personnel and Development.**

Response from the Security Industry Authority (SIA) to queries raised by the Committee

Antonia Hoskins
Assistant Clerk
Ad Hoc Committee on Private Security Industry (NI) Order 2009 Northern Ireland Assembly
Committee Office Room 345
Parliament Buildings
Stormont
Belfast
BT4 3XX

10 June 2009

Private Security Industry (NI) Order 2009

Dear Ms Hoskins,

Thank you for your letter of 8 June.

I will try to give clarification on the points you raised (in bold) below.

How far does the Private Security Industry (NI) Order 2009 extend to, with regards to the requirement to hold a licence?

(i.e. how would community festivals be affected; or

some other in/outdoor event where stewarding is undertaken in a voluntary capacity or for a nominal payment?).

Whether or not an individual undertaking a particular activity is licensable will always depend on the activity itself and the circumstances in which it is undertaken.

The Private Security Industry Act 2001 will bring in regulation to cover several areas: guarding, vehicle immobilisation and key holding. The majority of licensable activity comes under the guarding definition. The legislation defines guarding activity as:

- guarding premises against unauthorised access or occupation, against outbreaks of disorder or against damage.
- guarding property against destruction or damage, against otherwise being stolen or against being otherwise dishonestly taken or obtained.
- guarding one or more individuals against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

In respect of the employment status, with the exception of individuals undertaking licensable guarding activity on licensed premises or performing the activity of vehicle immobilisation, only those employed under contract and undertaking licensable activities are licensable.

Any individuals employed on an in-house basis for the event (i.e. not supplied to a third party under contract) unless undertaking activities defined as Door Supervision (guarding in relation to licensed premises) or Vehicle Immobilising, would not require a licence.

Volunteers

With the exception of vehicle immobilisation activities, individuals who undertake licensable activity as volunteers are not within the scope of the Order, and are therefore unlikely to be licensable. However, if an individual receives payment in kind or reward for their services this may breach their volunteer status.

The principles on what constitutes payment in kind or reward are in line with those set out by HM Revenue and Customs (HMRC) (previously the Inland Revenue). In short, HMRC identifies a payment in kind or reward as whether it is liable to either PAYE (Tax) or National Insurance Contributions.

The list provided on the Inland Revenue website (link below) is comprehensive, but not prescriptive, and if in doubt, we advise that individuals or organisations should seek independent legal advice.

<http://www.hmrc.gov.uk/employers/ebik/ebik2/table-of-contents.htm>

Would a private function be exempt from a licensing requirement, i.e. a marquee on private grounds?

In this instance the key issues are likely to be:

- What activity is being undertaken (e.g. is guarding activity being undertaken)
- Are any security operatives supplied under contract or employed in house?
- Is there an entertainments licence or licence for the consumption of alcohol in place?
- Is the event open to the public?

The type of event I think you may be suggesting is something like a wedding reception in a marquee in someone's private garden. This would not usually constitute a licensed premise open to the public. If this is the case, in house security/door supervisors would not be licensable. If however, private security was contracted in, e.g. to stop gate crashers (guarding against unauthorised access), these individuals supplied under contract would be licensable.

I hope this clarifies the issues you have raised, please contact me if further information of clarification is required.

Yours sincerely

John Montague

Divisional Head of Investigation

01824 780204

07795 121068

john.montague@the-sia.org.uk

From: John Montague [mailto:john.montague@the-sia.org.uk]

Sent: 10 June 2009 17:16

Dear Antonia,

Regarding the issue of 'band parades' and the 'marshalling of such events', the same principles would apply as set out in my earlier letter. Assuming that Key Holding and Vehicle Immobilisation is not involved, only marshals involved in guarding activity (as opposed to those who may just be there to provide first aid) may need a licence. Unless they were guarding in relation to a premise licensed for the sale and consumption of alcohol or entertainment they would only need a licence if they were supplied under contract, e.g. by a security company. If they are working in relation to a licensed premise then in house operatives would also need a licence. The exception that may apply in the case of band parades or similar events is that, as described in my letter, volunteers do not require an SIA licence.

Given the general nature of the enquiries I am afraid I can only give fairly general responses. It is usually necessary to look at the actual activities an individual is expected to carry out and the basis on which that individual is operating (under contract; in-house; or volunteer) to identify whether a licence is required.

I hopes this helps.

Regards,

John Montague
Head of Investigation
Security Industry Authority
PO Box 49768
London
WC1V 6WY

Telephone: 01824 780838
Mobile: 07795 121068
email: john.montague@the-sia.org.uk

Response from the Police Service of Northern Ireland (PSNI)

SEMPLE Valerie

From: MILLER Julie
Sent: 29 May 2009 14:24
To: SEMPLE Valerie
Subject: : FW: RE NIA Ad hoc on private security industry (NI) order 2009

07/3656 ~~07/3656~~
e ops -
Acc Harris

From: Hoskins, Antonia [mailto:Antonia.Hoskins@niassembly.gov.uk]
Sent: 29 May 2009 13:59
To: zComsec1
Cc: valeriesemple@psni.pnn.police.uk
Subject: RE NIA Ad hoc on private security industry (NI) order 2009

Dear Valerie

Further to my telephone message today please find attached the public notice which appears in the three main NI papers today, regarding the above legislation which extends the existing public security industry regulation to Northern Ireland.

I have also attached a copy of the proposed NI order and a copy of the 2001 Act to which it refers.

The PSNI (Philip Knox) originally responded to a Northern Ireland Office consultation on private security industry in August 2006.

If you are accepting on what is proposed then perhaps you can advise me accordingly; however if the PSNI has any particular issues in relation to this proposed legislation which it may wish to address to the committee in oral session, please would you contact the Clerk to the Committee, Mr Denis Arnold on 028 90 52 1280 as soon as possible and certainly by Wed 3 June to discuss this further.

Antonia Hoskins

Ad hoc Committee draft Private Security Industry Order

Room 345

Parliament Buildings
028 90521823
extn. 21823

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Page 2 of 2

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29/05/2009

SEMPLÉ Valerie

From: LARMOUR Michele
Sent: 30 September 2008 16:16
To: 'Gavin.Greenlees@nio.x.gsi.gov.uk'
Cc: zComsec1
Subject: 2.RESTRICTED:: TRIM Document : 1539949 : Press Release - SIA Regulation

Gavin,

Approved by ACC McCausland

Thank you
Michele

-----Original Message-----

From: Greenlees, Gavin [mailto:Gavin.Greenlees@nio.x.gsi.gov.uk]
Sent: 29 September 2008 14:43
To: LARMOUR Michele
Subject: TRIM Document : 1539949 : Press Release - SIA Regulation

<<Press Release - SIA Regulation.DOC>> Michelle,

Please see the attached press release we intend to issue from the NIO press office on Thursday. This is a slight redraft of one prepared by the SIA a number of months ago which included a quote from Drew Harris. Considering the recent portfolio changes I would be grateful for ACC McCausland's clearance for the PSNI quote or any amendment he may wish to make.

I would be grateful for an early response,

Gavin

Gavin Greenlees
POSD Operations - DSU
Stormont House Annex
Extension 27768
External (028) 90 527768

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Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

**PAUL LEIGHTON QPM LLB
DEPUTY CHIEF CONSTABLE**

Our Ref: 07\3656
Your Ref: NP 174-07

6 November 2007

REGULATION OF THE PRIVATE SECURITY INDUSTRY BY THE SIA

I acknowledge your recent letter to the Chief Constable dated 30 October 2007 and, in his temporary absence, I am replying on his behalf.

Thank you for recognising the contribution of D/Superintendent Adair to the development of the Policy and Legislation relating to the Security Industry Authority implementation and regulation.

I am pleased to nominate Assistant Chief Constable Drew Harris, Criminal Justice, as the single point of contact for this issue and he will ensure that other departments and Regions are consulted and kept informed when necessary. Assistant Chief Constable Harris' office will be in contact to arrange a meeting with NIO officials and the SIA.

I trust this is of assistance.

Yours sincerely

PAUL LEIGHTON

Mr Nick Perry
Director General, Policing and Security
Northern Ireland Office
Room B5.6
Block B Castle Buildings
Stormont Estate
BELFAST BT4 3SG

Private Office, PSNI Headquarters, 85 Knock Road, Belfast, Northern Ireland BT5 6LE
Telephone: 028 90 581614 Fax: 028 90 561645 Email: comsec1@psni.pnn.police.uk



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Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

Our Ref: Com Sec 07\3656

SUBJECT: REGULATION OF THE PRIVATE SECURITY INDUSTRY BY THE SIA

Assistant Chief Constable Harris
Criminal Justice

I refer to the attached letter by Nick Perry, Northern Ireland Office, dated 31 October 2007. I have also attached a copy of my response to Nick Perry for your information.

As you will determine from the letter, the implementation of regulations concerning Private Security by the Security Industry Authority will impact upon Criminal Justice as well as other areas within the PSNI.

I have nominated you to liaise with the NIO and the SIA regarding this matter. Please ensure that all relevant stakeholders are consulted and kept informed.

Please make contact directly with Nick Perry to arrange a suitable date and time for a meeting with NIO Officials and the SIA.

PAUL LEIGHTON
Deputy Chief Constable

November 2007

Response from the Society of the Local Authority and Chief Executives (SOLACE)

Mr Denis Arnold
Clerk to the Committee
Room 345
Parliament Buildings
Stormont

17 June 2009

Dear Dennis

NI Assembly Ad Hoc Committee on Private Security Industry (NI) Order 2009

SOLACE members have considered the proposals on the Private Security Industry (NI) Order 2009 and are in agreement with the principle of better regulation within the industry.

In relation to in house (Council) security staff I am aware that some Councils have already taken steps to register their staff with the Security Industry Authority. The other area whereby councils are affected in is 'Doorman Registration' and the administration of Entertainments Licensing. You will be aware that some councils have in house doorman registration schemes in operation for some years. I know that officers involved in those schemes have presented to the Ad Hoc Committee both on their schemes and concerns they have with the proposed SIA scheme. In line with our officers views, Members of Solace are also expressing concern in the areas of implementation where there is a possible conflict with the Good Friday Agreement principles, the proposed costs of £600 to the applicant and how the SIA will enforce the scheme including that impact on local council enforcement.

We would therefore propose that further consultation to resolve these issues is required before any such scheme is implemented. I am aware that the Minister has delayed the implementation of the scheme from December 2009 to April 2010 and we would welcome that space to resolve those issues.

Yours sincerely

Liam Hannaway
Hon. Secretary
SOLACE NI

Response from Belfast City Council re Door Supervisor Costings

Subject: FW: Information for Ad Hoc Committee on Private Security Industry (NI) Order 2009

Importance: High

Attachments: Belfast City Council Door Supervisor cost.xls

From: Mark Mulholland [mailto:MulhollandMark@BelfastCity.gov.uk]

Sent: 17 June 2009 13:11

To: Arnold, Denis

Cc: Hoskins, Antonia; Trevor Martin; Stephen Hewitt; Brian Magill; James Cunningham

Subject: Information for Ad Hoc Committee on Private Security Industry (NI) Order 2009

Importance: High

Hi Denis

Further to our conversation yesterday, I attach an estimated breakdown of how much it would cost an applicant for a Door Supervisors Licence to apply under the current registration scheme operated by Belfast City Council.

This information has been pulled together in a short space of time by the Building Control Service of Belfast City Council and is an attempt to provide the members of the Committee with relevant information to aid their consideration of the proposed legislation. In light of the tight time constraints this information has not been subject to political approval and represents factual information and not the political position of Belfast City Council. I would ask that you look upon these figures as approximate costings of our current scheme and these may be subject to a variance of 10 % either way.

I cannot provide a comprehensive breakdown of figures if the Council was to administer the scheme as operated by the Security Industry Authority. I do not know the full complexities and details of their scheme and determination processes and how their costings are broken down. Nevertheless if given the full details of the SIA scheme for licensing door supervisors I would be in a position to offer how much we would charge for running this same scheme in Belfast.

I hope the information provided is of use to the committee and please feel free to contact me should require any clarification.

Regards

Mark

Mark J Mulholland
Policy Officer
Building Control Service
Belfast City Council
5th Floor, 9 Lanyon Place,
Belfast.
BT1 3LP

Mulhollandmark@belfastcity.gov.uk
Tel 02890 320202 extension 2373

Belfast City Council Building Control

Door Supervisor costings (Belfast)	Time (hrs)	Rate	Cost	
Application in - check training etc				
Letter to applicant				
Certs and Access NI copied filed, sent back				
Check Access NI and input into ITsystem				
Report to RS Manager	1.50	£15.00	£22.50	(BS)
RS Manager consideration	1.00	£30.00	£30.00	(RS)
Letter to applicant and produce badge	1.00	£15.00	£15.00	(BS)
Badge			£1.00	
Postage and photocopying etc			£20.00	
Additional costs				
Compliance and Investigation			£25.00	
Badge making machine + I.T			£8.00	
Advertising etc			£16.00	
Legal			£12.50	
Total cost of licence			£150.00	
Basic Access NI cost (criminal record check)			£28.00	£26 p+p £2
Cost to applicant			£178.00	

NIO response to queries raised by the Committee

Briefing Note to the Adhoc Committee Considering the Proposed Draft:

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

18 June 2009

As part of your current consideration of the draft Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 you had asked for clarification on two issues.

1. **The consultation document ‘Regulating the Private Security Industry in Northern Ireland’ estimated that for a Northern Ireland agency to be self-financing it would have to charge at least £600. What is the breakdown of this cost?**

To set-up a dedicated agency in Northern Ireland to govern and set standards for the private security industry would require a considerable initial financial outlay. This cost would potentially include the acquisition of premises, equipment, recruitment and training of staff. The initial cost for setting up the SIA in England and Wales was £23.1m. Whilst it wasn’t anticipated that the cost would be as great in Northern Ireland it was estimated that it could potentially be around £3m. A similar exercise to establish the cost of setting up a governing agency in Scotland estimated an initial outlay of £5m. The licence fee, in common with the SIA, would be expected to allow an NI agency to be self financing.

At the time of the original consultation it was estimated that 110 companies were involved in the manned guarding sector with an average of 45 employees per company. On this basis:

Licensable population:

$$110 \text{ (companies)} \times 45 \text{ (employees per company)} = 4950$$

Licence cost per individual:

$$£3\text{m (initial setup cost)} \div 4950 \text{ (licensable population)} \approx £606$$

The detailed re-examination of the licensable population since the original consultation now suggests that an estimate of 9,500 individuals employed in the licensable sectors is more realistic. Considering this the potential licence cost per individual could be:

$$£3\text{m (initial setup cost)} \div 9500 \text{ (licensable population)} \approx £315$$

Although considerably lower than the original estimate this is still £70 more per individual than the current application charge for an SIA licence. In order not to disadvantage individuals and businesses in Northern Ireland under this option the licence fee for a dedicated NI agency may need to be set at the same level as the SIA licence. This might require an ongoing subsidy from the NIO or, post devolution of policing and justice, the NI Assembly. Potentially for every three year period this subsidy would be:

£70 (licence cost disparity) × 9500 (licensable population) ≈ £665,000

Assuming that licences from a dedicated NI agency were valid for three years it would require a phasing process for the licensable sectors leading to a further delay of up to 2 years for the sectors licensed last. As stated in the original regulatory impact assessment leaving the industry without regulation for a long period of time would not be acceptable.

A dedicated NI agency would bring the benefits of consistent regulation across Northern Ireland but these would not be as significant as those to be obtained from consistent regulation across the UK. SIA regulation will bring consistency in terms of number of licences, licence conditions, training standards and costs, keeping duplication and bureaucracy to a minimum. This approach will ensure that business across the UK can operate on an equal footing and that individuals will only require the one licence per sector no matter where in the UK they work. There will also be better and more consistent enforcement that can draw upon the experience and resources of the SIA, including a large, UK wide compliance and investigation team which can be deployed to the areas of greatest need.

2. **Could the SIA process be amended insofar as it applies to persons with a ‘conflict related conviction’ to reduce the potential unnecessary cost for cases of refusal on this basis?**

The Minister stated at his evidence session that he is in discussions with the Home Office to ensure that SIA process for people with Conflict Convictions is as streamlined as possible. The potential to either reduce the cost to people with conflict convictions or to defer the training requirement (and therefore this cost) until a decision in principle to award a licence has been taken will have to be investigated in some detail with the SIA and advice submitted to Ministers for consideration. We will not be able to provide a substantive response to this query in advance of the Committee reporting their findings. Initial thoughts, by way of background information, are set out below:

Licence Fee

The SIA does not make a profit. The aim of the licence application fee is to ensure that the SIA can be self-financing. This is in line with Government policy to encourage efficiency in ‘arms-length’ bodies. It is deemed not appropriate to use public funds to subsidise regulation of an industry or to use regulation to raise taxation.

The £245 fee covers;

- Administration in processing and issuing licences.
- Performing criminality checks.
- Enforcement and compliance.
- Communicating to those operating within the industry to help them understand licensing requirements and the application process.
- Providing SIA staff and maintaining their office infrastructure.
- Research and development to continually enhance the standards of professionalism and performance within the security industry.

All applicants are required to pay the fee to apply for a licence and the proportionality of a change to benefit a small proportion of applicants with conflict convictions from what is, in itself, a small proportion of UK applicants would have to be considered.

Appendix 4

**List of Witnesses who gave
evidence to the Committee**

List of Witnesses who gave evidence to the Committee

Mr Trevor Martin	Belfast City Council
Mr Brian Magill	Belfast City Council
Mr James Cunningham	Belfast City Council
Mr Colin Neill	Federation of Retail Licensed Trade NI (FRLT)
Mr Philip McCann	Publican
Mr Stephen Magorrian	Managing Director of Botanic Inns
Mr Paul Goggin MP	Minister of State for Northern Ireland
Mr David Brown	North Down Borough Council
Mr Pat Conway	Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
Ms Heather Reid	Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
Ms Ann Reid	Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
Mr Ronnie Armour	Northern Ireland Office
Mr Steven McCourt	Northern Ireland Office
Mr Gavin Greenlees	Northern Ireland Office

Appendix 5

Research Papers

Research Papers

The regulation of the private security industry in Northern Ireland	145
Employing ex-offenders with conflict-related convictions in Northern Ireland	150



Northern Ireland
Assembly

The Regulation of the Private Security Industry in Northern Ireland

Ruth Barry
Research officer

Introduction

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

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

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

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

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

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

Schedule 13 defines 'security services' as the services of one or more individuals as security guards (whether or not provided together with other services relating to the protection of property or persons). The grant of the licence is contingent upon the directors, partners or sole trader satisfying the Secretary of State that a proscribed organisation, or an organisation closely associated with a proscribed organisation,

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

2 *Ibid*

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

would not benefit from the granting of a licence whether directly or indirectly, financially or otherwise.⁴ Schedule 13 was repealed in July 2007 and was replaced with the interim arrangement under the Justice and Security (Northern Ireland) Act 2007⁵ which required persons offering or providing security guard services for reward to obtain a licence from the Secretary of State. Schedule 13, section 7 is contained within the annex of this paper

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

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

Options for regulation were:⁷

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

Small firms Impact Test

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

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

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

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

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

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

Summary of the Consultation

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

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

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

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

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

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

The Security Industry Authority (SIA)⁹

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

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

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

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

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

⁹ <http://www.the-sia.org.uk>

Key Dates¹⁰

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

The National Audit Office- Regulating the security industry¹¹

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

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

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

Research project: Privatisation and the Regulation of Domestic Security¹²

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

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

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

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

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

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

ANNEX

Schedule 13 of the Terrorism Act 2000¹⁴

Private Security Services

Security services: interpretation

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

Unlicensed services: offences

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

(a) holds a licence under this Schedule, or

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

Explanatory note- The Private Industry Act 2001¹⁵

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

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

May 2009

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

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

Research Paper



Employing ex-offenders with conflict-related convictions in Northern Ireland

Introduction

This briefing paper has been prepared on behalf of the Ad Hoc Committee for the Private Security Industry Order 2009 to provide an overview of the legislation and guidance relating to issues regarding employment and those with conflict-related convictions:

- The Rehabilitation of Offenders legislation attempts to create a balance between the re-integration of ex-offenders and the protection of the public by creating 'spent convictions' but also balancing this with a list of excepted professions where an offender may be questioned about his 'spent convictions'.
- The Fair Employment legislation¹ would appear to support the re-integration of ex-offenders by making it unlawful to discriminate against someone on the grounds of religious belief or political opinion. Article 2(4)², however, states that:
In this Order any reference to a person's political opinion does not include an opinion which consists of or includes approval or acceptance of the use of violence for political ends connected with the affairs of Northern Ireland, including the use of violence for the purpose of putting the public or any section of the public in fear.
- The judgement delivered by Kerr J, in the Damien McComb judicial review case³, appears to support the re-integration of ex-offenders and stated that particular attention should be paid to the fact that a prisoner was released under the terms of the Northern Ireland Sentences Act 1998 has been adjudged not to be a danger to the public.
- The recent case of McConkey and another v Simon Community Northern Ireland 2009⁴ appears to undermine the judgement of Kerr J and takes a narrow view of Article 2(4) of the Fair Employment and Treatment (Northern Ireland) Order 1998 by stating that an employer in Northern Ireland can refuse to employ a person on the ground that they have supported or the employer perceives that they have supported violence for political ends connected with Northern Ireland in the past even if they no longer hold such views.
- The OFMDFM guidelines⁵ appear to support a flexible and supportive approach and states that a 'conviction arising from the conflict should not bar an applicant from obtaining employment.....'.

1 *The Fair Employment and Treatment (Northern Ireland) Order 1998*: <http://www.opsi.gov.uk/si/si1998/19983162.htm>

2 *Ibid*

3 <http://www.courtsni.gov.uk/NR/rdonlyres/89A%A23-1217-4771-99BD-471D6A6D4E1F/O/j-jKERF3984.htm>

4 <http://www.publications.parliament.uk/pa/id200809/idjudgmt/jd090520/Conkey-1.htm>

5 http://www.ofmdfmi.gov.uk/1.05.07_ex_prisoners_final_guidance.pdf

- The Security Industry Authority guidance⁶ appears to support the re-integration of ex-offenders and base their approach on that on the judgement of Kerr J and the guidance to employers issued by the Office of the First Minister and deputy First Minister in relation to conflict-related convictions that pre-date the Good Friday Agreement (April 2008).

Rehabilitation of Offenders (Northern Ireland) Orders- 1978- 2009

The Rehabilitation of Offenders (Northern Ireland) Order 1978⁷ introduced limitations on the requirement to disclose previous convictions. After a specified period of time a conviction can become ‘spent’ and may no longer be required to be disclosed to employers and others.

Exceptions to the 1978 Order can be categorised broadly in terms of protecting the vulnerable (for example, work with children and vulnerable adults), the administration of Justice (for example, the legal profession and criminal justice practitioners), and national security. There are also exceptions relating to positions in finance and banking, regulated by the Financial Services Authority.⁸

The recent Rehabilitation of Offenders (Exceptions)(Amendment) Order (Northern Ireland) 2009⁹ updates the circumstances under which a convicted person may be required to declare spent convictions. It adds to the list of excepted occupations as a result of new employing offices, bodies and employment patterns, *examples of which would be employment in the Security Industry Authority, taxi driving and employment concerned with working with children or providing case service to vulnerable adults.*

Fair Employment legislation¹⁰

The Fair Employment and Treatment (Northern Ireland) Order 1998

FETO makes it unlawful to discriminate against someone on the ground of religious belief or political opinion. This includes a person’s supposed religious belief or political opinion and the absence of any, or any particular, religious belief or political opinion.

2 (4) In this Order any reference to a person’s political opinion does not include an opinion which consists of or includes approval or acceptance of the use of violence for political ends connected with the affairs of Northern Ireland, including the use of violence for the purpose of putting the public or any section of the public in fear.

Damien McComb- application for Judicial Review (2003)¹¹

This was an application by Damien McComb for judicial review of the decision of His Honour Judge Hart QC, the Recorder of Belfast, dismissing the applicant’s appeal against the refusal of his application for a public service vehicle license.

6 Conflict-related convictions: http://www.the-sia.org.uk/home/northern_ireland/conflict_convictions.htm

7 http://www.opsi.gov.uk/RevisedStatutes/Acts/nisi/1978/cnisi_19781908_en_1

8 *There were further amendments to the Rehabilitation of Offenders (Northern Ireland) Order 1978: The Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 limits the protection afforded to those convicted of offences and increases protection for the public by providing certain exceptions. For example, a person may be questioned about his spent convictions in order to assess his suitability for specified offices or occupations or for admissions to specified professions.*

The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2001 amends the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 by excepting work which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of his normal duties.

The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2003 amends the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979. It adds further classes of profession to the exceptions listed in the 1979 Order.

9 http://www.opsi.gov.uk/sr/sr2009/nisi_20090173_en_1

10 *The Fair Employment and Treatment (Northern Ireland) Order 1998:* <http://www.opsi.gov.uk/si/si1998/19983162.htm>

11 <http://www.courtsni.gov.uk/NR/rdonlyres/89A%A23-1217-4771-99BD-471D6A6D4E1F/O/j-jKERF3984.htm>

It was concluded that the fact of the applicant's release under the 1998 Act should have been considered by the department and on appeal by the courts in deciding whether he should be granted a taxi driver's licence. Kerr J stated he was satisfied that this was not considered. The application for judicial review was granted and the decision of the Recorder was quashed.

McConkey and another v Simon Community Northern Ireland¹²

The House of Lords concluded in this case that an employer in Northern Ireland could refuse to employ a person on the ground of his having supported the use of violence for political ends connected with the affairs of Northern Ireland even if the job-seeker has since repudiated such views.

The House of Lords so held in dismissing an appeal by John McConkey and Jervis Marks against the dismissal by the Court of Appeal in Northern Ireland (Lord Justice Higgins, Lord Justice Girvan and Mr Justice McLaughlin) (\ NI CA 16) of their appeal from a decision of the Fair Employment Tribunal that they were not unlawfully discriminated against by the Simon Community Northern Ireland, contrary to the Fair Employment and Treatment (Northern Ireland) Order (SI 1998 No 3162 (NI 21)).

Article 19(1) of the 1998 Order made it unlawful for an employer to discriminate against a person by refusing him employment for which he applies. Article 3(1) of the Order defines discrimination as including "discrimination on the ground of religious belief or political opinion.

"Political opinion" was not defined by the order but article 2(4) provided that "any reference to a person's political opinion does not include an opinion which consists of or includes approval or acceptance of the use of violence for political ends connected with the affairs of Northern Ireland, including the use of violence for the purpose of putting the public or any section of the public in fear."¹³

OFMDFM- Recruiting people with conflict-related convictions, employers' guidance¹⁴

The OFMDFM guidance states that 'a conviction arising from the conflict should not bar an applicant from obtaining employment..' The report supports the judgement of Kerr J in the Damien McComb case:

The Agreement contemplated that mechanisms would be put in place for the accelerated release of prisoners and that those prisoners who benefited from that programme would be reintegrated into the community. It appears to me, therefore that particular attention should be paid to that fact that a prisoner released under the terms of the Northern Ireland Sentences Act 1998 and has been adjudged not to be a danger to the public.

Security Industry Authority Guidance¹⁵

- The criteria we apply in deciding whether to grant a licence are approved by the Secretary of State (section 7(5) of the Private Security Industry Act 2001).
- We have a statutory duty to apply those criteria in our decision making (section 8(3) of the Private Security Industry Act 2001).
- When considering a criminal record, we take into account the relevance, seriousness, recency and the disposal of each offence.
- We consider all offences on a person's criminal record, regardless of whether in other circumstances they might be considered 'spent'.

12 <http://www.publications.parliament.uk/pa/id200809/idjudgmt/jd090520/Conkey-1.htm>

13 *The Times*, May 26 2009, 'Refusal to employ former Republicans is justified; Law Report: <http://business.timesonline.co.uk/tol/business/law/reports/articles6360717.ece>

14 http://www.ofmfmni.gov.uk/1.05.07_ex_prisoners_final_guidance.pdf

15 *Conflict-related convictions*: http://www.the-sia.org.uk/home/northern_ireland/conflict_convictions.htm

- We believe that our approach to considering offences is consistent with the judgement of Kerr J (in the matter of a judicial review by Damien McComb), and the guidance to employers issued by the Office of the First Minister and deputy First Minister in relation to conflict-related convictions that pre date the Good Friday Agreement (April 1998).
- The Kerr J judgement in the Damien McComb case and the Office of the First Minister and deputy First Minister employer guidelines are relevant to our decision making. The fact that an offence was conflict related and pre-dates the Good Friday Agreement will be taken into account when considering the whole of a person's criminal record.

June 2009

Appendix 6

Draft Order

Document Containing a Draft of a Proposed Order in Council Under Section 85 of The Northern Ireland Act 1998

This document contains a draft of the proposed **Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009**, an Order in Council under section 85(1) of the Northern Ireland Act 1998 (c.47). It is required to be laid before Parliament under section 85(4)(a) of that Act.

Representations about the proposed Order and Scheme may be made to the Secretary of State for Northern Ireland during the period of 60 days* beginning with the day on which this document is laid.

Note as to procedure for an Order in Council under section 85 of the Northern Ireland Act 1998

The Secretary of State for Northern Ireland is also referring this document to the Northern Ireland Assembly for its consideration, in accordance with section 85(4) (b) of the 1998 Act.

A draft of an Order in Council to be made under section 85 (1) cannot be laid before Parliament until the period of 60 days* beginning with the day on which this document is laid before Parliament has ended.

When the draft order is laid, section 85(6) requires that it is accompanied by:

- a statement containing a summary of any representations made to the Secretary of State about the proposed Order during the 60 day period. *Such representations include any relevant resolution of either House of Parliament (or of the Assembly), and any relevant report or resolution of any committee of either House of Parliament (or of the Assembly)* (section 85(12));
- a copy of any report on the proposed Order made to the Secretary of State by the Assembly during that period; and
- a statement containing details of any changes made to the proposed Order as a result of any such representations or report.

The draft Order in Council must be approved by resolution of each House before it can be made.

Draft Order laid before Parliament under section 85(3) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2009 No.

SECURITY INDUSTRY

NORTHERN IRELAND

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

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

The Secretary of State has laid a document which contained a draft of this proposed Order before Parliament in accordance with section 85(4)(a) of the Northern Ireland Act 1998⁽¹⁾ and has referred that document to the Northern Ireland Assembly for its consideration in accordance with subsection (4)(b) of that section.

The period referred to in subsection (4)(c) of that section has ended.

A draft of this order has been approved by a resolution of each House of Parliament.

Accordingly Her Majesty, in exercise of the powers conferred by section 85 of the Northern Ireland Act 1998, by and with the advice of her Privy Council, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 and shall come into force on the day after the day on which it is made.

(2) In this Order “2001 Act” means the Private Security Industry Act 2001⁽²⁾.

Amendment to the 2001 Act

2. In section 4 of the 2001 Act (exemptions from licensing requirement), after subsection (12) insert—

“(13) In its application to Northern Ireland subsection (12) has effect as if—

(a) for the definitions of “safety certificate”, “general safety certificate” and “special safety certificate” there were substituted—

⁽¹⁾ 1998 c. 47.
⁽²⁾ 2001 (c.12).

““safety certificate”, “general safety certificate” and “special safety certificate”—

- (a) in relation to a sports ground, have the same meanings as in Part 2 of the Safety of Sports Grounds (Northern Ireland) Order 2006 (S.I. 2006/313 (N.I. 2) (“the 2006 Order”)) (see Article 3 of that Order);
- (b) in relation to a sports stand, have the same meanings as in Part 3 of the 2006 Order (see Article 12(1) of that Order);”,
- (b) for the definition of “sports ground” there were substituted—
““sports ground” has the same meaning as in the 2006 Order (see Article 2(2) of that Order);”, and
- (c) for the definition of “sports stand” there were substituted—
““sports stand” means a stand within the meaning of Part 3 of the 2006 Order (see Article 12 of that Order);”.”.

3. In paragraph 8(2) of Schedule 2 to the 2001 Act, after paragraph (l) insert—

- “(m)any premises in respect of which a licence under the Licensing (Northern Ireland) Order 1996 (S.I. 1996/3158 (N.I.22)) is in force;
- (n) any place in respect of which an occasional licence under that Order is in force.”.

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Private Security Industry Act 2001 to take account of Northern Ireland legislation relating to sports grounds and sports stands and licensing law.

Explanatory Note on the Proposed Draft:

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

Purpose of the instrument

The purpose of this instrument is to make a number of minor amendments to the Private Security Industry Act 2001, which sets up a regulatory regime for the private security industry. These amendments insert references to Northern Ireland legislation into the Act, which has recently been extended to Northern Ireland. The amendments will ensure that the Act operates in Northern Ireland as it does in the rest of the United Kingdom.

Legislative Context

The Private Security Industry Act 2001 sets out a system for the statutory regulation of the private security industry. Sections 1 and 2 of and Schedule 1 to the Act set up a Non-Departmental Public Body, the SIA. The SIA has responsibility for licensing individuals to work within designated sectors of the private security industry.

Under the Act any individual who carries out an activity that has been designated under section 3(3) of the Act is required to hold a licence issued by the SIA. It is an offence under section 3(1) of the Private Security Industry Act 2001 to carry out a designated activity without a licence.

The activities that have been designated to date in England, Wales and Scotland include the guarding of people, property and premises, and the immobilisation of vehicles that are not on public roads (wheel clamping). No activities have been designated in Northern Ireland as the Private Security Industry Act 2001 was only recently extended to Northern Ireland.

The aim of the Home Office and the Northern Ireland Office is that the activities that are currently designated under the Act in relation to England and Wales, and Scotland, will be designated in Northern Ireland from December 2009 onwards. The effect of the designation will be that these activities can only be carried out legally in Northern Ireland with a SIA Licence. Once this has been done there will be a unified regime for the regulation of the private security industry across the United Kingdom.

The proposed draft order is intended to make amendments to the Act in advance of December 2009 to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.

Legislative Amendments

The first amendment relates to an exemption in section 4 of the Act for those working in certain sports grounds from any requirement to hold a licence under the Act. The exemption does not apply in Northern Ireland as it is defined by reference to the Safety of Sports Grounds Act 1975 and the Fire Safety and Places of Sport Act 1987, neither of which extends to Northern Ireland. The amendment will extend the exemption to Northern Ireland by adding references to the Safety of Sports Grounds (NI) Order 1976, which is the equivalent Northern Ireland legislation.

The second amendment relates to Schedule 2 which lists the various activities that can be designated under the Act (the designation triggers the requirement to hold a SIA Licence). One of the activities listed at paragraph 8 of Schedule 2 is the work of door supervisors or other security personnel in licensed premises. The definition of licensed premises in paragraph 8(2) of the Schedule currently only refers to

licensed premises in England and Wales and Scotland. The amendment will add references to licensed premises in Northern Ireland, ensuring that those working in Northern Ireland are also covered by the Act.

Further instruments are planned under the powers to pass secondary legislation provided by the Act itself to make some additional amendments to Schedule 2 to the Act in order to take account of Northern Ireland legislation, to bring the Act fully into force in Northern Ireland and to designate licensable activities in Northern Ireland. Once these have been made the licensing scheme under the Private Security Industry Act 2001 will be fully operational in Northern Ireland.

Policy background

As explained in the preceding section this Order makes a number of technical amendments to the 2001 Act which will ensure that the SIA licensing regime under the 2001 Act will operate in Northern Ireland as it does in the rest of the United Kingdom.

Northern Ireland Ministers have given a commitment to the extension to Northern Ireland of licensing under the 2001 Act by the SIA, with the licence requirement commencing in December 2009. After that it will be illegal to engage in licensable conduct in Northern Ireland without a licence from the SIA. Current interim arrangements under the Justice and Security (Northern Ireland) Act 2007 require persons offering or providing security guard services for reward to obtain a licence from the Secretary of State.

Using the SIA will ensure that standards are equal throughout the UK and will increase Northern Ireland's ability to operate and compete on a national level. It is the most cost-effective and efficient option for regulation and will meet the objectives outlined below:

- increase public safety and confidence in the industry;
- promote best practice within the industry and remove those who seek to use their position to pursue criminal activities;
- raise standards of competence and professionalism for security companies;
- improve the reputation of the industry;
- protect and recognise companies and individuals who do operate to high standards and who have invested in training and selective recruitment;
- specify minimum levels of training for security personnel; and
- make the industry an attractive career choice.

The SIA's multi-agency approach to compliance and enforcement activity sits well with the methods currently used in Northern Ireland and could be successful in tackling the problem of organised crime within the industry. Using the SIA will provide a robust regulatory framework that will protect both those operating legitimately within the industry and those who avail of private security services.

Consultation

A consultation document entitled 'Regulating the Private Security Industry in Northern Ireland' was circulated to organisations representing the private security industry, political parties, relevant local authority organisations, and a wide variety of other organisations with an interest in or who use private security services in August 2006. This document set out the options for regulation and highlighted the Government's preference, which was to extend the remit of the SIA to Northern Ireland.

The Government invited responses from organisations and individuals. The consultation paper included and welcomed comments on the results of the Equality Screening of these proposals, in line with the Department's Equality Scheme. The consultation formally closed on 24 October 2006.

Of the responses received from security companies, all were strongly in favour of the proposals to extend the remit of the SIA to Northern Ireland. This view was shared by the local authorities, the Police Service of Northern Ireland and the British Security Industry Association, the trade association covering all aspects of the professional security industry in the UK.

The Government has taken into account all comments and views received on the consultation document and the Northern Ireland Minister gave them his full attention when deciding to extend the remit of the SIA as the new scheme of regulation for the industry in Northern Ireland. No separate public consultation on the proposed draft order has been carried out as it is intended only to make minor amendments to the Act to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.

The original consultation document is available at:

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

The final regulatory impact assessment is available at:

http://www.the-SIA.org.uk/NR/rdonlyres/5AA8D0D7-92D6-40A0-8DAD-7B5531CD34AD/0/northern_ireland_ria.pdf

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