

Subordinate Legislation Act 1992

REGULATORY IMPACT STATEMENT

FOR

*SECURITY AND INVESTIGATIONS AGENTS
ACT 2002*

**AN IMPACT STATEMENT ON THE PROPOSED FEES TO
BE APPLIED FOR SERVICES PROVIDED UNDER THE
SECURITY AND INVESTIGATION AGENTS ACT 2002**

Prepared by Consumer Affairs and Fair Trading, Department of Justice and
Industrial Relations

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1. Introduction

This Regulatory Impact Statement has been prepared in accordance with the requirements of Part 2 of the *Subordinate Legislation Act 1992*. It forms part of the process of providing an appropriate means of determining Government's cost recovery for administering the *Security and Investigations Agents Act 2002*.

The key purpose of regulation is to establish and maintain appropriate standards of service delivery and conduct for those engaged in security, debt collection and investigation activities. These standards are intended to provide confidence by the public in the people who provide these services and promote the safety and security of those people who are employed in this industry.

Following a review of existing regulation of the security and investigation industry, Government agreed to repeal the *Commercial and Inquiry Agents Act 1974*, and to replace it with a new Act which better reflects the needs of the current market. This new approach is contained in the *Security and Investigations Agents Act 2002*.

The legislation provides for two licence classifications - an Agent Licence and an Employee licence. An agent licence is in force for 3 years, while an employee licence is in force for 1 year.

The *Commercial and Inquiry Agents Act* is currently administered state-wide by the Magistrates Court with pre court processes delegated to the Commissioner for Corporate Affairs in the South.

To administer the *Security and Investigations Agents Act* on a statewide basis, the Hobart based Commissioner for Corporate Affairs intends to utilise Service Tasmania shops to;

- accept the application,
- undertake an identity check, and
- photograph the applicant.

The estimated cost to government to deliver the service is \$140,000.

2. Objective of the proposal

The objective of this proposal is to determine the level of the prescribed fees that should be made under the *Security and Investigations Agents Regulations 2002*, for various administrative functions provided for in the Act. The following fees are in fee units, and are contemplated. The value of a fee unit is currently \$1.05.

Fee description	Units	Current \$ amount
Application fee for Agent Licence (for 3 Years)	455 fee units	477.75
Application fee for Employee Licence (for 1 Year)	100 fee units	105.00
Application for Duplicate Licence	35 fee units	36.75
Application for Duplicate Identity Card	35 fee units	36.75
Fee for Inspection of the register	11 fee units	11.55

All of the Fees have been calculated to a sufficient level to achieve cost recovery of the additional resource input that will be required to administer the Act. The value of the fee unit will increase over time in line with the Consumer Price Index through the *Fee Units Act 1997*.

3. Options to achieve objective

Two options are considered:

1. Impose no charge for processing applications under the Security and Investigations Agents Act.
2. Impose a charge on the person making application equivalent to the estimated cost to Government of maintaining the registers, processing the applications, and supporting activities to ensure compliance with the provisions of the Act.

4. Costs and benefits of the options

General

The key purpose of existing regulation is to establish and maintain appropriate standards of service delivery and conduct for those engaged in security, debt collection and investigation activities. These standards are intended to provide confidence by the public in the people who provide these services and promote the safety and security of those people who are employed in this industry.

Means of achieving objectives

The licensing regime is the principal means of ensuring that appropriate persons enter the market and that the conduct of licensees is in accordance with community standards and the requirements of the licence. The principal purpose of imposing fees is to recover the costs of establishing and maintaining these community and licence standards.

Cost and Benefits

The costs and benefits of the two options are:

Option 1 – No charge

Costs	Benefits
Taxpayer funded All taxpayers would fund the administration of the legislation, at the cost of other Government programs.	Free and open market place. The marketplace would not be subject to the full requirements of the Legislation.
Industry probity checks Industry would need to undertake their own probity checks, which may not be to the same level as those undertaken by Government. Therefore, there is a greater risk of market failure.	Money saved Additional funds available to industry as a result of not paying fees.
Industry credibility The credibility of the Industry may be diminished.	Time saved Time saved from not having to undertake activities associated with compliance with the Act.
Decreased standards Industry standards may decrease in order to compete.	
Police compliance activities Compliance activities would need to be conducted solely by Police Department. It is envisaged that in most cases these activities would be reactionary.	

Detail costs and benefits

In the absence of cost recovery from the persons or bodies undertaking security and investigation activities covered by the Act, the cost to Government in administering the legislation would have to be funded from the consolidated fund.

The likely outcome of Government funded process is a reduced focus on compliance activities or no compliance activities at all. This is because resources that would have been used for compliance activities would now be required to cover the cost to Government of the licensing process.

If the compliance aspects of the licensing process are not achieved it is likely that the objectives of the licensing system and the Act would not be met.

Further, as the majority of benefits that result are realised by those involved in the industry, it would not seem to be equitable for a service that will provide substantial benefits to one sector of the community to be funded by all Tasmanian taxpayers.

This option is not recommended. Government involvement to maintain the policy objectives of this legislation occurs at a cost. If the provisions were not funded by industry, they would be funded from the consolidated fund at the expense of other public programs. It is desirable that the primary beneficiaries of Government's involvement contribute to these costs.

Option 2 – Impose a charge

Costs	Benefits
Fees Industry would need to raise the funds required to meet the fee regime.	Provides gatekeeper role Ensures that only persons who are fit and proper are licensed.
Time Time involved in complying with the provisions of the Act.	Provides audit role Government is able to conduct audits of businesses to ensure that they conduct business in a proper manner.
Regulated marketplace The marketplace would be subject to the requirements of the Legislation.	Cost recovery Fees ensure that those persons who are in the industry pay for the costs of the regime.
	Industry credibility Industry is able to maintain a standard that assists in the general credibility of the market.
	Identification of licensees The public are able to determine if security guards are appropriately licensed through the display of identification or through searching a register of licensed persons.
	Industry consultation Government is able to promote appropriate standards through consultation with industry.

Detail costs and benefits

It is estimated that the annual operating cost of maintaining the registers, processing the applications, and supporting activities to ensure compliance with the provisions of the Act by the Department of Justice will be \$140,000. The expected revenue based on the forecast number of transactions at the proposed level of fees is about \$140,000.

Under this option the person or body, as the beneficiary, would meet all of the Government's estimated operational costs. This is the recommended option.

Fee comparison with Commercial and Inquiry Agents Act 1974

The legislation provides for two licence classifications - an Agent Licence and an Employee licence. An agent licence is in force for 3 years, while an employee licence is in force for 1 year.

The change to the licensing structure means that applicants who previously may have held separate licences to undertake the activities of Security Agents, Commercial Agents and Inquiry Agents (Previously costing a total of \$607.95 or \$226.80 p.a.) need now only hold the one Agent licence (Cost \$477.75 or \$159.25 p.a.). Similarly, Employee licence holders (Cost \$105 p.a.) are licensed to undertake the activities of both Security guards and Commercial sub agents (Previously costing \$73.50 p.a.).

A further reduction in cost is created from the removal of the requirement to advertise an intention to apply. Major newspapers generally charged in excess of \$100 per advertisement, which was a cost in addition to the application fee.

Cost recovery

It is generally accepted that where a good or service provided by Government is of a purely private benefit, then the users of that good or service should pay to the extent of the cost of providing the good or service. While there is clearly some benefit to the general public in the form of confidence in the industry, it is appropriate that industry contribute substantially if not entirely to the costs of the licensing process.

Net public benefit

Having considered the costs and benefits, the conclusion is that the benefits to the industry and to the public of imposing fees at a cost recovery level outweigh the costs.

5. Impact of the proposal on competition

Prior to drafting the *Security and Investigation Agents Act* a review was undertaken of the *Commercial and Inquiry Agents Act* to determine if the requirements of that legislation were appropriate and to discover if there were better alternatives. This process included significant public and industry consultation.

During this process submissions were received, none of which would lead us to believe that the fee for application would preclude a person from entering the industry.

Further, as the net cost of obtaining a licence has in effect been reduced it could be argued that it is now easier for a person to enter the market than was previously the case.

A licensing regime means that all players in the industry are competing on similar terms. As such competition is enhanced by this restriction.

It is concluded that the proposal does not adversely affect competition.

6. Assessment of greatest net benefit to the community

Of the two options the greatest net benefit to the community would be achieved by Option 2 as the Government would recover the cost of maintaining the registers, processing the applications, and supporting activities to ensure compliance with the provisions of the Act.

7. Consultation to be undertaken

Although considerable consultation has been undertaken with industry in relation to the content of the Act, proposed fees have only recently been calculated. However, as in most cases the final cost of obtaining a licence is significantly less than was previously the case we do not consider there will be great objection to the proposed fees.

The Department of Justice and Industrial Relations will:

1. consult directly with the Australian Security Industry Association Limited (ASIAL) and Chartered Institute of Professional Security and Investigation Agents (CIPSIA); and
2. by notice in the Gazette and in three newspapers circulating generally in Tasmania:
 - provide opportunity for members of the public to obtain a copy of the Regulatory Impact Statement and the proposed regulations; and

- invite submissions within at least 21 days of the date of the notice from members of the public on the proposed Regulations.

8. Lodgement of submissions

Comments or submissions in respect of this Regulatory Impact Statement must be lodged by 10 July 2002 with:

The Manager
 Business Affairs Branch
 Consumer Affairs and Fair Trading
 Department of Justice and Industrial Relations
 GPO Box 249
 HOBART TAS 7001

Or by hand to:

The Manager
 Business Affairs Branch
 Consumer Affairs and Fair Trading
 Department of Justice and Industrial Relations
 Ground Floor
 15 Murray Street
 Hobart Tasmania

NB. It should be noted that the contents of representations would be available for perusal by any member of the public unless they are marked 'Confidential' and are capable of being classified as such in accordance with the *Freedom of Information Act 1991*.

9. Proposed fees in the draft *Security and Investigations Agents Regulations 2002*.

SCHEDULE 1 – FEES

	Regulation 4
Application under S. 6(2)(d) of the Act –	
(a) for agent licence	455 fee units
(b) for employee licence	100 fee units
Duplicate licence or identity card under section 19 of the Act	35 fee units
Inspection of the register under section 20(3) of the Act	11 fee units