

For discussion
on 7 November 2002

Legislative Council Panel on Security

Proposed Amendments to Criteria for Issuing a Security Personnel Permit

Purpose

This paper invites Members' views on the proposals made by the Security and Guarding Services Industry Authority (“*SGSIA*”) to amend the existing criteria for issuing a security personnel permit (“*SPP*”). The main areas of amendments are as follows –

- (a) to tighten the criteria for issuing SPP to persons with criminal records (paragraphs 13 to 20), and
 - (b) to replace the existing requirement for producing a “certification of employment by prospective employer” with “proficiency in security work” (paragraphs 21 to 30).
2. Other minor amendments are related to the criterion of “fitness”, definition of “single private residential building” and descriptions of categories of SPP in paragraphs 9 to 12, paragraphs 31 to 33, and paragraphs 34 to 36 respectively.

Background

3. The Security and Guarding Services Ordinance (“*SGSO*”) (Cap 460) was enacted in December 1994 to provide for a licensing scheme to regulate the security industry. Under the scheme, a person will require an SPP before he/she may provide security services in Hong Kong. The SGSO replaces the former Watchmen Ordinance (Cap 299), enacted in 1956, under which watchman’s permits were issued.

4. The SGSIA was established on 1 June 1995 under the SGSO. One of its main functions is to specify the criteria and conditions for issuing SPP. The Commissioner of Police (“*the Commissioner*”) is the licensing authority for SPP. Under section 6(3) of the SGSO, the Criteria for Issuing a Security Personnel Permit (“*the Criteria*”) have to be laid before and approved by the Legislative Council before

publication in the Gazette. Section 6(4) explicates that the Gazette notice published by the SGSIA specifying the Criteria is not subsidiary legislation (Please see relevant extract of the SGSO at **Annex A**).

5. When the SGSO was introduced in 1995 to replace the former Watchmen Ordinance, there were already some 116,000 people in the security workforce who were issued with watchman's permits. To provide a transitional arrangement for holders of watchman's permits, a phased programme to replace the former watchman's permits by SPP was launched and was completed by end of April 2002. It is considered an opportune time to review the existing Criteria.

6. It is hoped that by amending the Criteria, the SGSIA can further ensure that only fit and proper persons with the necessary proficiency in security work are issued with SPP, thereby helping to enhance the quality of the security service and professional standard of the security industry.

Existing Criteria and Proposed Amendments

7. Being the licensing authority for SPP, the Commissioner is empowered under section 14(5) of the SGSO (**Annex B**) to issue an SPP when he is satisfied that an applicant is a fit and proper person to hold the permit and meets the Criteria specified by the SGSIA. There are four categories of SPP, namely Categories A, B, C and D, in relation to different types of security work. In accordance with the SGSO, the SGSIA has specified the criteria in relation to each of the four types of security work that must be satisfied by a person before the Commissioner may issue an SPP. The existing Criteria (copy at **Annex C**) were first promulgated on 4 August 1995. It lists the requirements on the following aspects –

- (a) age;
- (b) fitness;
- (c) good character;
- (d) certification of employment by prospective employer;
- (e) arms licence (only applicable to Category C); and
- (f) proficiency (only applicable to Category D).

8. The SGSIA now proposes to amend the criteria of “Fitness”, “Good Character” and “Certification of Employment by Prospective Employer” and the related notes of those criteria. The ensuing paragraphs set out the existing requirements, the proposed amendments and the rationale for such amendments.

A. Fitness and Note (2)

Existing Criterion

9. To be eligible for Categories A, B and C SPP, an applicant must be of good health and is physically fit to perform the job. A medical certificate issued by a registered medical practitioner may be required if the Commissioner reasonably considers necessary. Note (2) sets out that a standard medical certificate form is available from the Licensing Office of the Hong Kong Police Force. Physical items subject to medical check include eyesight, mental state, balance and co-ordination, and hearing.

Proposed Amendment

10. The term “of good health” is proposed to be deleted. It is also proposed to delete the second sentence of Note (2) (i.e. “Physical items subject to medical check include eyesight, mental state, balance and co-ordination, and hearing.”).

Rationale

11. The proposed deletion of the term “of good health”, which is supported by the Equal Opportunities Commission, will avoid giving employers a pretext to discriminate people with a disability. The proposed deletion would not hamper the effect of the criterion since the applicant is still required to prove that he/she is physically fit to perform the specific job in question. The Commissioner is also empowered to require the applicant to produce a medical certificate if he reasonably considers necessary.

12. As regards Note (2), it is considered unnecessary to list out all physical items subject to medical check since all the items are shown in the standard medical certificate form available from the Licensing Office of the Hong Kong Police Force.

B. Good Character and Note (3)

Existing Criterion

13. An applicant, irrespective of the category of SPP being applied for, must be of good character having regard to his employment history, criminal records and other relevant factors.

14. Note (3) of the existing Criteria specifies that no person who is convicted of a criminal offence will normally be granted an SPP if he/she is within 2 years of release

from a term of imprisonment, or is currently on probation or bound over. This is usually referred to as the “Good Character” criterion.

Proposed Amendment

15. It is proposed that the “Good Character” criterion should be tightened so that no person will normally be granted an SPP if he/she -

- (a) was convicted of any offence specified in column 2 of Schedule 2 to the SGSO, and the penalty imposed on him/her for that offence is the corresponding penalty specified in column 3 of that Schedule, within 5 years before submitting his/her application (A copy of Schedule 2 to the SGSO and a list of the commonly committed Schedule 2 offences are at **Annex D** and **Annex E** respectively); or
- (b) is currently on probation, bound over, remission or suspended sentence; or
- (c) is within 3 years of release from a term of imprisonment; or
- (d) was convicted of 3 or more offences within 5 years before submitting his/her application. Offences involving fixed penalty tickets, traffic summons, illegal hawking, article obstruction, littering, jaywalking and failing to answer Police or Court bail are considered minor and will be excluded.

16. Schedule 2 offences referred to in paragraph 15(a) include, amongst others, sexual and related offences under the Crimes Ordinance (Cap 200). The specified penalty for sexual and related offences in the existing Schedule 2 is imprisonment. In view of the general concern that persons convicted for sexual offences are not suitable for security-related duties and the fact that imprisonment is usually not imposed for some common sexual offences, e.g. indecent assault, the Administration will take the opportunity to amend Schedule 2 to the SGSO so that the specified penalty for sexual and related offences will be changed from “imprisonment” to “any penalty”. The effect of the amendment is that, no SPP will normally be granted to a person convicted of sexual and related offences with any penalty imposed within 5 years before submitting his/her SPP application.

Rationale

17. The SGSIA believes that all security personnel are placed in a position of trust. They are relied upon to discharge important functions of safeguarding lives and properties of others and to prevent or detect occurrence of any offence. In the course of

their work, they may also have access to sensitive information about their clients. The public generally expects the security personnel to have a high standard of personal integrity and credibility.

18. According to the statistics maintained by the Police, about 8.4% of the SPP holders registered up to end of August 2002 (20,078 out of the 238,414) have criminal convictions before obtaining SPP. Among this group of SPP holders, 8.1% of them were reconvicted after obtaining SPP. As compared to 1.3% of the SPP holders with clean records who were convicted after obtaining SPP, the above observation may suggest that people who have previous criminal records are more prone to commit offences.

19. Following the arrest or conviction of a few security personnel in the past for offences committed whilst on duty, there have been demands for a review of the policy governing the issue of SPP to persons with criminal records. The SGSIA has conducted a 3-month consultation exercise from June to September 2001 in this regard. Five possible options were examined in the consultation paper. A total of 225 responses (157 parties/individuals provided written submissions and 68 DC/DFCC members expressed views at 11 DC/DFCC meetings) have been received. About 51% of the responses received agreed to preclude repeat offenders from obtaining SPP completely and about 71% supported tightening up the criteria.

20. In view of the public support for tightening up the "Good Character" criterion, the SGSIA considers it necessary and reasonable to make the criterion more stringent. After balancing the need to ensure only fit and proper persons will enter into and serve within the security industry, and the need to rehabilitate repented offenders, it is proposed that a moderate approach, as proposed in paragraph 15, should be adopted. The proposal strikes a right balance between providing reasonable rehabilitation opportunities for offenders and rendering adequate protection for the public at large. The tightening of the criterion also brings a greater deterrent effect on commission of offence by the security personnel.

C. Certification of Employment by Prospective Employer

Existing Criterion

21. To apply for Categories A, B and C SPP, an applicant on his/her first application for an SPP must produce a letter of employment from the prospective employer.

Proposed Amendment

22. It is proposed that the production of a “Certification of Employment by Prospective Employer” for application of Categories A, B and C SPP should be replaced by “Proficiency in Security Work”. To be regarded as having sufficient level of proficiency in security work, an applicant must satisfy one of the followings -

- (a) He/she must have sat and passed a trade test recognized by the SGSIA and announced in a manner that it thinks fit, within 1 year before submitting his/her application. (A person who has already passed the trade test before the commencement of the revised criteria is eligible to apply for an SPP within 1 year from the effective date of the revised criteria.); or
- (b) He/she must have not less than 3 years of cumulative working experience in performing security work lawfully in Hong Kong over the past 5 years immediately before submitting his/her application; or
- (c) He/she must produce a letter of employment from the prospective employer.

Item (c) will cease to have effect 6 months after the effective date of the amended criteria as published in the Gazette.

23. Working experience may be substantiated by relevant documentary evidence provided by employers/applicant or a statutory declaration of experience by the applicant.

Rationale

24. After years of implementation of the SGSO, the existing “Certification of Employment by Prospective Employer” criterion is no longer considered appropriate or necessary. The SGSIA has been urged to amend this criterion to facilitate people who wish to join the security industry.

25. In response to this request, the SGSIA proposes to replace this criterion, as applicable to Categories A, B and C SPP, by “Proficiency in Security Work”. This new criterion could ensure that people entering into and serving in the security industry have proficiency necessary in performing their security duties. With the new criterion in place, applicants may apply for SPP directly and speedily without the involvement of their prospective employers, thus minimizing disputes between employers and jobseekers, especially in the current economic climate.

26. The “Proficiency in Security Work” criterion is proposed to include two alternatives -

- (a) passage in a trade test recognized by the Authority; or
- (b) at least 3 years of cumulative experience in performing security work in Hong Kong over the past 5 years.

27. For the implementation of the proposed amendments, a trade test for Categories A, B and C SPP has been developed by the Security Services Training Board (“SSTB”) of the Vocational Training Council. The trade test assesses SPP applicants' knowledge on security work, enables them to obtain a recognized vocational qualification and enhances their status. The SSTB has conducted a public consultation on the trade test with security companies, trade associations, trade unions, course providers under the SGSIA's Recognition Scheme and Owners Corporations in June 2000. The result of the consultation revealed that a majority of respondents supported the introduction of the trade test for security guards. Three pilot tests for 150 candidates were conducted from October 2000 to May 2001 and voluntary trade tests have been conducted regularly since June 2001.

28. With the successful experience gained from the pilot and regular tests, the SGSIA is confident that the trade test is an appropriate replacement of the employment certification criterion, and it will also help to raise the overall service standard of guarding services in Hong Kong. The questions and the format of the trade test are developed after taking into account the views collected during the consultation conducted by the SSTB in June 2000, as well as the general educational background of serving and potential security personnel. The test (in the form of multiple choice questions) is simple but adequate in assessing whether a candidate possesses the necessary basic security knowledge. While the SGSIA and the SSTB have given due consideration to avoid the trade test becoming another hindrance to people wishing to join the security industry, efforts were also paid to ensure that people who are granted SPP have acquired the basic security knowledge required for discharging their duties, thus help enhance the quality of the security service.

29. For people who have adequate working experience in the security industry, the SGSIA considers that they should have possessed the necessary security work knowledge and skills gained from their on-the-job training as well as past hands-on experience. Therefore, sufficient working experience in the security industry would also be accepted as a replacement of the current certification of employment criterion. It is therefore proposed that persons with 3 years of cumulative working experience gained lawfully in Hong Kong in the past 5 years should be accepted as having the necessary proficiency in security work without having to sit and pass a trade test.

30. The SGSIA is currently conducting a one-month public consultation on its proposal to replace the existing “Certification of Employment by Prospective Employer” criterion with “Proficiency in Security Work”. The consultation period will end on 15 November 2002. As at 30 October 2002, a total of 14 responses have been received. The SGSIA will take into account the views of the security industry, SPP holders as well as the wider community on its proposal before amending this criterion.

D. Note (1) - Definition of a Single Private Residential Building

Existing Definition

31. A single private residential building (“SPRB”) means an independent structure -
- (a) covered by a roof and enclosed by walls extending from the foundation to the roof, and
 - (b) used substantially for private residential purpose; and
 - (c) with only one main access point.

Proposed Amendment

32. It is proposed that the term “independent” and “main access point” in the existing definition should be clearly defined as follows –

- (a) a building is considered to be independent from another if on most of the floors, one cannot get direct access to the quarters on the same floor in the other building without going to an upper/lower floor, roof or the street.
- (b) “Main access point” means the entrance gate or lift lobby or staircase commonly used by residents to gain access to their flats. This excludes emergency and fire exit.

Rationale

33. Category A SPP holders are restricted to work at SPRBs. Security companies and security personnel from time to time enquire the definition of SPRBs so as to avoid breaching the SGSO. In order to spell out more precisely and clearly the definition of SPRBs, the SGSIA in conjunction with the Commissioner have worked out a clearer definition of SPRBs. The proposed revised definition in fact has been used for years as

internal guidelines. The SGSIA now takes the opportunity to formally fine-tune the definition in the Criteria.

E. Descriptions of Categories of SPP

Existing Descriptions

34. The existing descriptions of the four categories of SPP are as follows -
- A Guarding Work Restricted to a “Single Private Residential Building”
 - B Guarding Work for all Types of Premises and Properties
 - C Guarding Work, the Performance of which Requires the Carrying of Arms and Ammunition
 - D Installation, Maintenance and/or Repairing of a Security Device and/or Designing (for any particular premises or place) a System Incorporating a Security Device

Proposed Amendments

35. The proposed revised descriptions of the four categories of SPP are as follows -
- A Guarding work restricted to a “single private residential building”, the performance of which does not require the carrying of arms and ammunition
 - B Guarding work in respect of any persons, premises or properties, the performance of which does not require the carrying of arms and ammunition and which does not fall within Category A
 - C Guarding work, the performance of which requires the carrying of arms and ammunition
 - D Installation, maintenance and/or repairing of a security device and/or designing (for any particular premises or place) a system incorporating a security device

Rationale

36. It is proposed to change the current descriptions of categories A, B, C and D SPP to tally with the descriptions published in the Security and Guarding Services (Licensing) (Amendment) Regulation 2000. The latter defines more specifically the scope of security work a holder of a specific category of SPP may perform.

Advice Sought

37. Members are invited to comment on the SGSIA's proposed amendments to the Criteria for issuing SPP. It is hoped that the revised SPP issuing criteria will further ensure that only fit and proper persons with the necessary fitness, good character and proficiency in security work are granted SPP to provide security services, thereby helping to promote standard, reduce criminality in the security industry and enhance public confidence in private security services.

Security Bureau
November 2002

Section 6 - "Functions of the Authority"
of Security and Guarding Services Ordinance (Cap 460)

- (1) The functions of the Authority are-
 - (a) to consider and determine applications made to it under this Ordinance;
 - (b) subject to subsection (3), to specify, by notice in the Gazette-
 - (i) the criteria that must be satisfied by a person before the Commissioner may issue a permit to him;
 - (ii) the conditions subject to which a permit is to be issued;
 - (iii) the matters to which the Authority shall have regard when determining under section 21 an application for a licence under section 19; (Amended 25 of 2000 s. 6)
 - (iv) the criteria that must be satisfied before the Commissioner may, under section 8, grant a person an exemption from this Ordinance; and
 - (v) the matters to which the Authority shall have regard when determining whether the Authority should specify any, and if so what, period for the purpose of section 20(3)(a) or (6)(a) or 24A(4)(a); and (Added 25 of 2000 s. 6)
 - (c) to do such other things as it is required or authorized to do by this or any other Ordinance.
- (2) The Authority may for the purposes of subsection (1)(b) specify-
 - (a) different criteria, conditions and matters in relation to different types of security work; and
 - (b) a condition that the holder of a permit shall do only a specified type of security work.
- (3) A notice shall not be published in the Gazette under subsection (1)(b)(i) unless and until it has been-
 - (a) laid before; and
 - (b) approved by,
the Legislative Council.
- (4) For the avoidance of doubt, it is hereby declared that any notice under subsection (1)(b) is not subsidiary legislation.

(Enacted 1994)

Section 14(5) - "Application and Issue of Permit"
of Security and Guarding Services Ordinance (Cap 460)

- s.14(5) Subject to subsections (1), (2), (3) and (4), where the Commissioner is satisfied that an applicant is a fit and proper person to do a type of security work, the Commissioner-
- (a) shall, if the applicant satisfies the criteria specified under section 6(1)(b)(i) in relation to security work of that type, issue a permit to the applicant;
 - (b) may, if the applicant does not satisfy those criteria, refer the application to the Authority and, if the Authority approves the application, the Commissioner shall issue a permit to the applicant.

(Enacted 1994)

CRITERIA FOR ISSUING A SECURITY PERSONNEL PERMIT

Take notice that, pursuant to section 6(1)(b)(i) of the Security and Guarding Services Ordinance, the Security and Guarding Services Industry Authority hereby specifies the following criteria for issuing a permit under the said Ordinance. The criteria specified below in relation to a particular type of security work must be satisfied by a person before the Commissioner of Police may issue to him a permit under the said Ordinance to do that type of security work.

(A) Guarding Work Restricted to a 'Single Private Residential Building' (See Note 1)

- (a) *Age*
- (i) The applicant must be 18 years of age and above on the date of application.
 - (ii) If the applicant or permit holder is 70* years of age or above, he/she must produce a medical certificate (see Note 2) issued by a registered medical practitioner to certify that he/she is fit to undertake the duties required every two years.
- (b) *Fitness*
- The applicant must be of good health and is physically fit to perform the job. A medical certificate (see Note 2) issued by a registered medical practitioner may be required if the Commissioner of Police reasonably considers necessary.
- (c) *Good Character*
- The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.
- (d) *Certification of Employment by Prospective Employer*
- On his/her first application for a permit, the applicant must produce a letter of employment from the prospective employer (see Note 4).

* With effect from 1 June 2001, this age criterion will be lowered to 65.

(B) Guarding Work for all Types of Premises and Properties

- (a) *Age* The applicant must be 18 years of age or above. The upper age limit for engaging in this type of security work is 65 years.
- (b) *Fitness* The applicant must be of good health and physically fit to perform the job. A medical certificate (see Note 2) issued by a registered medical practitioner may be required if the Commissioner of Police reasonably considers necessary.
- (c) *Good Character* The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.
- (d) *Certification of Employment by Prospective Employer* On his/her first application for a permit, the applicant must produce a letter of employment from the prospective employer (see Note 4).

(C) Guarding Work, the Performance of which Requires the Carrying of Arms and Ammunition

- (a) *Age* The applicant must be 18 years of age or above. The upper age limit for engaging in this type of security work is 55 years.
- (b) *Fitness* The applicant must be of good health and physically fit to perform the job. A medical certificate (see Note 2) issued by a registered medical practitioner may be required if the Commissioner of Police reasonably considers necessary.
- (c) *Good Character* The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.

(d) *Certification of Employment by Prospective Employer* On his/her first application for a permit, the applicant must produce a letter of employment from the prospective employer (see Note 4).

(e) *Arms Licence* The applicant must possess a valid arms licence for the arms used on duty issued by the Commissioner of Police.

(D) Installation, Maintenance and/or Repairing of a Security Device and/or Designing (for any particular premises or place) a System Incorporating a Security Device

(a) *Age* The applicant must be 18 years of age or above.

(b) *Proficiency* The applicant shall have received appropriate training or can demonstrate the capability and proficiency (see Note 5) in the skills/technique required in performing his/her job.

(c) *Good Character* The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.

(d) *Certification of Employment by Prospective Employer* On his/her first application for a permit, the applicant must produce a letter of employment from the prospective employer (see Note 4).

Notes

- (1) A single private residential building means an independent* structure:--
- (a) covered by a roof and enclosed by walls extending from the foundation to the roof, and
 - (b) used substantially for private residential purpose; and
 - (c) with only one main access point⁺.

- (2) A standard medical certificate form is available from the Licensing Office of the Hong Kong Police Force. Physical items subject to medical check include eyesight, mental state, balance and co-ordination, and hearing.
- (3) The Commissioner of Police shall consider the nature of the criminal offence committed by the applicant and may refer the application to the Security and Guarding Services Industry Authority for decision. No person who is convicted of a criminal offence will normally be granted a permit if he/she is: --
 - (a) within 2 years of release from a term of imprisonment; or
 - (b) on probation or bound over.
- (4) All watchmen currently registered under the Watchman Ordinance are exempted from this requirement.
- (5) The applicant shall attach copies of certificate of relevant technical training, *or* record of employment showing his/her experience in this type of security work.

Security and Guarding Services Ordinance (Cap 460)
Schedule 2
Offences For Which Permit To Be Revoked

[ss.17 & 29]

Item	Offence	Penalty
1.	Any offence against the Societies Ordinance (Cap 151) or the Dangerous Drugs Ordinance (Cap 134)	Any penalty
2.	Any offence involving fraud or dishonestly	Any penalty
3.	Any offence involving violence	Imprisonment
4.	Any offence against Part XII of the Crimes Ordinance (Cap 200)	Imprisonment

(Enacted 1994)

Remarks:

Regarding item 4 of Schedule 2 of the SGSO, Part XII of the Crimes Ordinance include sexual and related offences. The Administration is planning to amend the Schedule such that the specified penalty in column 3 for item 4 will be changed from "imprisonment" to "any penalty". After the amendment has come into effect and in accordance with the proposed amendment to the Criteria as set out in paragraph 15(a) of the Panel paper, no SPP will normally be granted to a person convicted for sexual and related offences with any penalty within 5 years before submitting his/her SPP application.

Schedule 2 Offences

Annex E

Category	Common Offences
Triad	<ul style="list-style-type: none"> ● Being a member of a triad society ● Being an office bearer of a triad society ● <u>Managing an unlawful society</u>
Dangerous Drugs	<ul style="list-style-type: none"> ● Trafficking in dangerous drugs ● Possession of dangerous drugs ● Possession of equipment fit and intended for DD
Fraud or Dishonesty	<ul style="list-style-type: none"> ● Forgery and counterfeiting offences ● False accounting ● Giving a false statement to an immigration officer ● Taking a conveyance without authority ● Deception ● Bribery offences ● Using identity cards belonging to others ● Misleading a police officer ● Burglary ● Theft ● <u>Handling stolen goods</u>
Violence	<ul style="list-style-type: none"> ● Murder ● Manslaughter ● Kidnapping ● Robbery ● Wounding ● Assault ● Arson ● Criminal damage ● Blackmail ● Criminal intimidation ● <u>Possession of offensive weapons</u>
Sexual	<ul style="list-style-type: none"> ● Rape ● Indecent Assault ● Unlawful sexual intercourse with girl under 16 ● Soliciting for an immoral purpose ● Managing a vice establishment ● Indecency in public

Note: The above are the commonly committed Schedule 2 offences