

Licensing Directors

Please Note:

The contents of this document have been developed in good faith and provide the SIA's interpretation of relevant legal requirements. However, this guidance has no legal status; the Private Security Industry Act 2001 and associated orders and regulations always take precedence. Users are advised to refer to the source legislation and, if in doubt, seek independent legal advice. No responsibility can be accepted by the SIA for any reliance placed on the guidance in this document.

Background

Under the Private Security Industry Act 2001, directors of companies providing security services may be required to hold an SIA licence. In this context, 'director' means executive and non-executive directors, shadow directors, parent company directors and corporate entities holding a directorship. Consequently the licensing requirements can impact more directors than may have been anticipated and this guidance aims to help companies understand the scope of the requirement and ensure that all directors comply with the law.

I. The Private Security Industry Act 2001 (the PSIA)

I.1 Section 25 of the PSIA sets out the definition of 'director':

(a) in relation to a company as defined in section 1 (1) of the

Companies Act 2006, (a director) includes a shadow director;

(b) in relation to any such company that is a subsidiary of another, (a director) includes any director or shadow director of the other company; and

(c) in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate

2. Executive & Non-Executive Directors

2.1 Legally, there is no distinction between an executive and a non-executive director. The definition of 'director' in the PSIA, therefore, includes non-executive directors.

3. Shadow Directors (refer to 1.1(a) above)

3.1 The Companies Act 2006 states that a shadow director "means a person in accordance with whose directions or instructions the directors of the company are accustomed to act". For example, if a person sets up a company which provides security services (i.e. security services involving licensable activity) and appoints directors who report to him or her or who act under his or her directions, then that person will be a shadow director and will be licensable.

4. Parent (holding) company and Subsidiaries (refer to 1.1(b) above)

4.1 The term director includes any director of a 'holding' company of a subsidiary company. This means that if a company providing security services (company A) is a subsidiary of another (company B) then the directors of company B are licensable, in addition to the directors of company A.

The Companies Act 2006 states that a company would be a subsidiary of another where that other company:

- holds a majority of the voting rights in the subsidiary company;

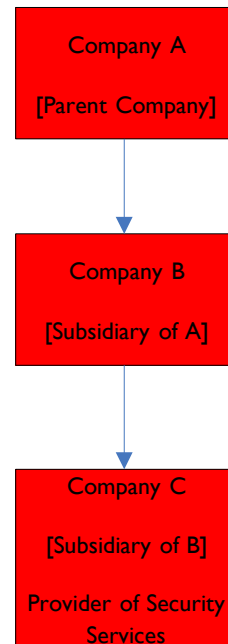
- is a member of the subsidiary company and has the right to appoint or remove a majority of its board of directors; or
- is a member of the subsidiary company and, pursuant to an agreement with other shareholders or members, controls a majority of the voting rights in the subsidiary company;

or if it is a subsidiary of a company which is itself a subsidiary of that other company.

Example 1:

Company A (the main holding company) and company B (a subsidiary of A) do not provide security services. However, company B has a subsidiary, company C, which does provide security services.

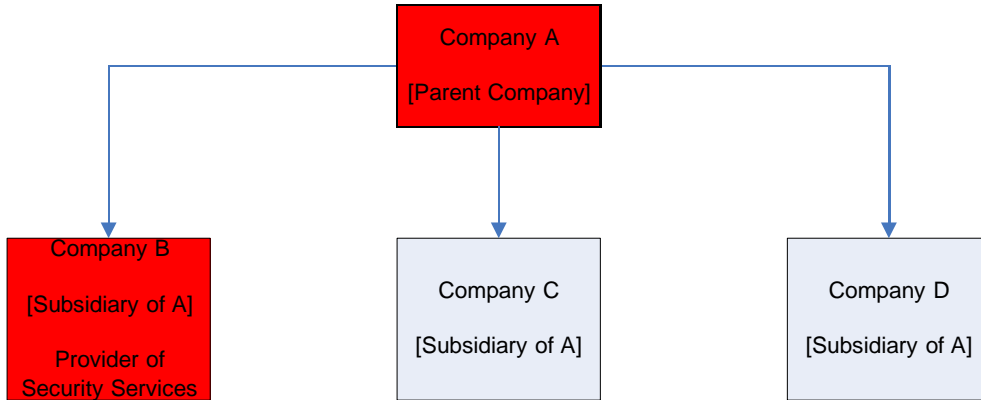
The directors of C are licensable under the PSIA. The directors of A and B are also licensable because C is a subsidiary of B and of A and the directors of B and of A therefore fall within the definition of a licensable director.



Example 2:

One main holding company (company A) has 3 subsidiaries (B, C and D). B is the

only company that provides security services.



The directors of A and B are licensable. The directors of C and D are not licensable provided that they are not involved in the management and operation of B such that they act as shadow directors of B.