



# Riot (Damages) Act 1886

Consultation on options for review

July 2003

A consultation produced by the Home Office.  
This information is also available on the Home Office website  
<http://www.homeoffice.gov.uk/inside/consults/current/index.html>

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# Review of the Riot (Damages) Act 1886

## Summary

1 This consultation document outlines a review by the Home Office of the history and operation of the Riot (Damages) Act 1886 (RDA). It invites views on whether the RDA should be: -

- Retained as it stands;
- Repealed entirely; or
- Reformed to limit liability for claims.

2 The rationale for each of these options is explained below.

## Why review the Riot (Damages) Act 1886?

3 The RDA is getting on for 120 years old. Concerns have been expressed for some time about the operation of the RDA. It is argued that society and the nature of policing have changed dramatically over the last century and the RDA is increasingly inappropriate to modern conditions.

4 The debate has centred on a number of issues:

- Is the assumption underpinning the RDA - that riots are a culpable failure to provide adequate policing - reasonable and appropriate?
- Is it reasonable that police authorities (i.e. the tax payer) should be subject to a potentially unlimited liability for riot damage to property when insurance is generally available for most property crimes, such as arson, burglary and car theft, or there is the possibility of receiving compensation through the courts.
- Is the RDA a necessary and effective 'safety - net' for vulnerable communities, given that most insurance policies exclude riot damages cover and providing such cover on a commercial basis could be expensive? Or does the existence of the Act distort the operation of the market, reducing choice to those communities and acting as a disincentive to inward investment?

5 The Government decided to look at the RDA following riots in the north of England during the summer of 2001. At a time when the police service is undergoing a programme of major reform it seem opportune to take stock of whether the RDA remains relevant to 21st century needs.

6 Since the review was commissioned there has been a riot at the Yarls Wood detention centre, a facility operated by the private sector under contract to the Home Office. This incident has resulted in a substantial claim being made under the RDA by the contractors' insurers. This claim has yet to be resolved.

7 The Home Office has conducted a preliminary review of the RDA history and recent claims made under the RDA which is attached at Annex A. There has been an initial consultation with stakeholders within the police, insurance industry and other government departments.

8 We hope that this document will offer a basis for more detailed dialogue with those who are affected by, or have an interest in the RDA. The key players include central and local government, National Assembly for Wales, police authorities and police forces, the insurance industry, businesses, community and voluntary organisations.

### **Riot (Damages) Act 1886 - Background**

9 The origins of the RDA are in the 'Remedies Against the Hundred Act 1827', which for the first time gave a remedy against riot damages. [A 'Hundred' was the legal title of a self-contained local community with tax raising powers.] The remedy was against the 'Hundred' to pay compensation to victims of riot damages in the case of felonious demolition of churches, chapels, houses, and machinery being feloniously demolished by rioters.

10 Following the 1886 riots in London the Remedies Against the Hundred Act 1827 was replaced by the Metropolitan Police (Compensation) Act 1886, which was superceded by the Riot (Damages) Act 1886 (RDA), to cover all parts of England and Wales. In Scotland, compensation for riot damages is covered by the Riotous Assemblies Act 1822 and liability for paying compensation lies with local authorities.

11 The Metropolitan Police (Compensation) Act 1886 (and subsequently the RDA) transferred liability for riot damages compensation from the Hundred, in whose area the riot occurred, to all Hundreds falling within the police district (an administrative area for police operations). The RDA did not alter the principle of riot damages compensation being paid by local communities as the police funds continued to be raised through local taxation. In the 20<sup>th</sup> century, the role and funding of police authorities changed significantly and the majority of police funding now comes from the central government.

### **Riot (Damages) Act 1886 - current position**

12 Under the RDA 1886, a police authority in England and Wales becomes liable to pay for damages to buildings and their contents when a riot has taken place. A riot is determined by section 1 of the Public Order Act 1986 (1) *"Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety....."*

13 Compensation under the RDA does not apply to personal injury, loss of business or damage to property outside of buildings save that which is on “premises appurtenant to the same”.

14 Claims for compensation have to be made to the police authority within 14 days of a riot. In circumstances where this is not possible the claimant can seek an extension from the authority to 42 days. Such a request must be made within the 14-day time frame. If an extension is refused the claimant can appeal to the Home Secretary (within 7 days) and the Home Secretary will rule whether the extension should be allowed. These arrangements are set out in the Riot Damage Regulations 1921.

15 Police authorities are generally expected to meet the cost for riot damage compensation from their reserves.

16 In the past 20 years riots have occurred in England and Wales in 1981, 1985, 1991, 1995, 2001 and 2002.

17 The available information on claims paid under the RDA prior to 1995 is incomplete. Data on payments made from 1995 is of better quality but still needs to be treated with caution; some significant claims have yet to be resolved. However, it does confirm that in recent times most payments (in terms of number and value) have been made for damage to business premises.

### **Riot (Damages) Act - Review options**

18 Following initial consultations with a number of stakeholders and review of the RDA history, recent riots and past claims, we have identified three main options (a) retain the RDA unaltered (b) repeal or (c) reform. A partial Regulatory Impact Assessment of these options, which includes details of RDA claims paid by police authorities since 1995, is at page 11.

#### **Option A - Retain the RDA Unaltered**

19 This option maintains the status quo and the police authorities remain responsible for paying compensation for riot damage claims.

20 The main argument in support of this option is that it is a fundamental duty of the police to preserve the Queen's peace. Damage as a result of serious public disorder should therefore continue to be compensated by the taxpayer. Some stakeholders have commented that riots occur due to grievances about the way communities are policed as well as opposition to social policies of government.

21 The data on claims paid under the RDA indicates that the majority of successful claims are for business premises. Some stakeholders argue that the RDA provides individuals and businesses that are unable to obtain commercial riot damages cover with a safety net in the event of riot damage and that this helps safeguard people in vulnerable communities.

22 The arguments against this option are that the RDA is no longer relevant to modern policing policies or operational activities. Riots can occur as a result of unpredictable factors, often unrelated to local activities or policing policies.

23 There are opportunities for aggrieved parties to pursue damage litigation through the courts if there is evidence that the police have acted negligently or in bad faith. But the RDA takes no account of whether actions of the police were reasonable in the circumstances that they faced.

24 As regards the households and small businesses, it has been argued that insurance should be available for riot damages like other risks of accidental and criminal damage.

### **Option B - Repeal the RDA**

25 This would place riot damage on the same basis as other criminal damage.

26 Riot damages cover is not generally available. Some stakeholders argue that because the RDA imposes this risk on police authorities there is no incentive for the industry to offer such cover. This option provides an opportunity for the insurance industry to consider the market demand for riot damages cover and the level of risk.

27 But people could be left exposed without any redress, unless the market fills the vacuum. While riots are still fairly irregular events it is possible that either insurers would not find riot damages business sufficiently attractive or that the cost of cover would be beyond the means of the householders and small businesses who have tended to benefit under the RDA.

### **Option C - Reform the RDA**

28 A compromise option would be to retain a degree of cover for riot damages from public funds while limiting liability by setting a simple maximum cash limit for each claim or capping by other means such as a percentage of the value of the claim. An alternative approach might be to target eligibility to the less well off households and/or smaller businesses that are likely to have least resilience to loss or serious damage to their property.

29 Further work would be needed to establish a reasonable claim limit to ensure adequate protection for stakeholders covered by this option.

## Your Views

30 The Government would welcome views on the options mentioned, in particular; -

- **should riot damage compensation be treated any differently to criminal damages such as arson or burglary and other insurance risks such as accidental damage and flooding?**
- **should the taxpayer retain liability to pay compensation for riot damages through police authorities and/ or the Home Office?**
- **What are the implications of proposed options for various stakeholders such as households, small businesses, and inner city areas?**

31 Other options may emerge during this consultation. We would welcome any alternative approaches to the issues raised in this paper.

## Key Stakeholders

32 This document is being sent to the following key stakeholders.

Association of British Insurers  
Asian Business Association  
Asian Business Federation  
Association of Chief Police Officers  
Association of Police Authorities  
British Beer and Pub Association  
British Chambers of Commerce  
British Insurance Brokers Association  
British Retail Consortium  
British Property Federation  
British Security Industry Association  
British Transport Police  
Business in the Community  
Confederation of British Industry  
Crime and Disorder Reduction Partnerships  
Crime Concern  
Finance and Leasing Association  
Federation of Small Businesses  
Government Offices for the Regions  
Institute of Directors  
Institute of Asian Businesses  
International Underwriters Association  
Lloyds of London  
Local Government Association  
Ministry of Defence Police  
National Assembly for Wales  
National Council for Voluntary Organisations  
National Market Traders Federation  
UK Atomic Energy Authority Constabulary  
Police Federation  
Police Superintendents Association  
Scottish Executive  
Serious Fraud Office  
Small Business Service  
Social Exclusion Unit  
Trades Union Congress  
Welsh Local Government Association  
Youth Justice Board

## How to respond

33 Please send your response by **9 October 2003** to:

**James Austin Brady**  
**Police Resources Unit**  
**Crime Reduction and Community Safety Group**  
**Home Office**  
**5<sup>th</sup> Floor, West Wing**  
**Queen Anne's Gate**  
**London**  
**SW1E 5EB**

**Tel: (020 7273 2633)**

**Fax: (020 7273 3733)**

**Email: james.brady2@homeoffice.gsi.gov.uk**

34 Please enclose the following details:

**Name:**

**Organisation/Company:**

**Address of Organisation/Company/Individual:**

**Telephone number:**

35 **If you are a representative group please give a summary of the people and organisations you represent.**

37 Individual contributions will not be acknowledged unless specifically requested.

38 The information you send us may need to be passed to colleagues within the Home Office and published in a summary of responses on our website at [www.homeoffice.gov.uk/](http://www.homeoffice.gov.uk/). **We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system, unless you specifically include a request to the contrary in the main text of your submission to us.**

39 **Please ensure your response is marked clearly if you wish your response or name to be kept confidential.** Confidential responses will be included in any statistical summary of numbers of comments received and views expressed. A summary of the findings will be available on request.

40 Additional copies of this paper, including a Welsh language version, are available through our website:

<http://www.homeoffice.gov.uk/inside/consults/current/index.html>.

## Consultation Co-ordinator

If you have any complaints or comments about the consultation process, you should contact the Home Office consultation co-ordinator, Geraldine Lilley by email at [geraldine.lilley@homeoffice.gsi.gov.uk](mailto:geraldine.lilley@homeoffice.gsi.gov.uk). Alternatively, you may wish to write to the address below:

Geraldine Lilley  
Consultation Co-ordinator,  
Home Office  
7<sup>th</sup> Floor Orange Area  
Dean Ryle Street  
London SW1P 2AW

## The Consultation Criteria

The Code of Practice on Written Consultation issued by the Cabinet Office recommends the following criteria:

- A Timing of consultation should be built into the planning process for a policy or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
- B It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
- C A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
- D Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
- E Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

- F Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
- G Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

The full code of practice is available at: [www.cabinet-office.gov.uk/servicefirst/2000/consult/code/ConsultationCode.htm](http://www.cabinet-office.gov.uk/servicefirst/2000/consult/code/ConsultationCode.htm) in English and Welsh.

**Your opinions are valuable to us. Thank you for taking the time to read this document and respond.**

<u>FORCE</u>	<u>RIOT OCCURANCE</u>	<u>TOTAL NUMBER OF CLAIMS MADE</u>	<u>TYPE OF PROPERTY AFFECTED</u>	<u>TOTAL VALUE OF PAYMENTS MADE BY THE POLICE AUTHORITY<sup>1</sup></u>
West Yorkshire	Bradford, 1995	20	All claims for damage to business	£240,081.67
West Yorkshire	Leeds, 1995	4	All claims for damage to business	£239,887.00
West Yorkshire	Huddersfield, March/ May 2001	2	All claims for damage to business	£19,352.00
West Yorkshire	Bradford, 15 April 2001	3	All claims for damage to business	£420,000
West Yorkshire	Bradford, July 2001	37	33 claims for damage to business, 2 Claims for Private Property, 2 claims for damage to private social clubs.	c. £30,000 <sup>2</sup>
Lancashire	Burnley, 2001	16	2 claims for damage to business.	Not available
Greater Manchester	Oldham, 2001	28	22 claims for damage to business and 6 for damage to private property.	£8963.91
Bedfordshire	Yarl's Wood	1	Detention Centre	£0
<b><u>Totals</u></b>		<b><u>111</u></b>	<b><u>86 Businesses, 8 Private Properties, 2 Private Social Clubs, 1 Detention Centre.</u></b>	<b><u>£928,284.58</u></b>

<sup>1</sup> As of 29<sup>th</sup> April 2003

<sup>2</sup> Claims outstanding are subject to loss adjustment.