

EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY ACT 2001 (LICENCES)
REGULATIONS 2007 (AMENDMENT NO. 2) REGULATIONS 2009

2009 No. 2398

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

2. Purpose of the instrument

2.1 The Private Security Industry Act 2001 (Licences) Regulations 2007 (Amendment No. 2) Regulations 2009 replace the licence application form currently prescribed under section 8(2)(a) of the Private Security Industry Act 2001 (the “2001 Act”) with a new version of the form, which includes questions relating to the applicant’s right to work in the United Kingdom.

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). The SIA has responsibility for licensing individuals to work within designated sectors of the private security industry.

4.2 Under section 8(2)(a) of the 2001 Act, the Secretary of State can prescribe the form on which an individual must apply to the SIA for the grant of a licence. These Regulations amend the Private Security Industry Act 2001 (Licences) Regulations 2007 (SI 2007/810) by replacing the application form currently prescribed for the purposes of section 8(2)(a), with a new form, as set out in Schedule 1 to these Regulations. In addition, in reliance of the power conferred by section 24(5)(b) of the 2001 Act, these Regulations enable the application form that was prescribed prior to the coming into force of these Regulations to be used until 31st March 2010.

5. Territorial Extent and Application

5.1 This instrument applies to the United Kingdom. The 2001 Act was extended to Northern Ireland on 8 March 2009. There is currently no requirement to hold a licence under the 2001 Act for security industry activities in Northern Ireland since no activities have been designated in Northern Ireland. The aim of the Home Office and the Northern Ireland Office 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 onwards. The effect of the

designation will be that these activities can only be carried out legally in Northern Ireland with an SIA licence.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 A person who wishes to work in the private security industry in the United Kingdom must have the right to work here. It is the duty of the employer, and not the Security Industry Authority (SIA), to ensure that persons whom they wish to employ have the right to work. Nevertheless, the Government considers that it is desirable for the SIA to check whether applicants from outside the EEA have the right to work as part of its checking procedures. The revised application form asks for relevant information relating to the non EEA applicant's right to work, citizenship and passport. This information will help to speed up the SIA's existing checking process and to make it more effective. There are some additional changes which are intended to clarify the application form, but the form otherwise remains largely the same.

8. Consultation outcome

8.1 There is no requirement for a formal consultation.

9. Guidance

9.1 The SIA's guidance notes for the revised form will contain guidance on the additional questions.

10. Impact

10.1 The impact on individuals, business and any other bodies is that individuals who apply to the SIA for a licence will have to answer the new questions relating to the right to work. The SIA have also taken the opportunity to reduce the burden on applicants by taking out fields that are not required and improving where possible the design of the form in order to reduce completion errors.

11. Regulating small business

11.1 This instrument applies to all individuals who apply for licences to work in licensable activity in the private security industry. It is judged that the impact is not significant or disproportionate to such individuals, or to small businesses which may submit applications on behalf of their employees.

12. Monitoring & review

12.1 The application form is kept under review.

13. Contact

Chris Down of the Vetting and Safeguarding Policy Unit
(chris.down@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.