

EXPLANATORY MEMORANDUM TO

THE PRIVATE SECURITY INDUSTRY ACT 2001 (EXEMPTION) (AVIATION SECURITY) (AMENDMENT) REGULATIONS 2012

2012 No. 1567

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 (Exemption) (Aviation Security) (Amendment) Regulations 2012 (“the 2012 Regulations”) amend the Private Security Industry Act 2001 (Exemption) (Aviation Security) Regulations 2010 (“the 2010 Regulations”). The 2010 Regulations exempt certain airside security operatives from the licensing requirements of the Private Security Industry Act 2001 (“the 2001 Act”) on the basis that suitable alternative arrangements are in place which make it unnecessary for those people to be licensed by the Security Industry Authority (“SIA”). The 2010 Regulations set out the circumstances in which a person carrying out licensable conduct is exempt from SIA licensing. These are where the person is provided to implement or be responsible for the implementation of screening, access control or other security controls in a security restricted area, having been recruited and trained in accordance with Commission Regulation (EU) No 185/200. The 2012 Regulations remove the requirement that the licensable conduct is being conducted in a “security restricted area”.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This instrument is being made to extend an existing exemption from the requirement to have a SIA licence for certain persons who work in the aviation security industry.

4.2 The 2001 Act empowers the Secretary of State to make regulations to exempt persons engaging in licensable conduct from the requirement to be licensed where she is satisfied that “suitable alternative arrangements” apply which “as a consequence” make it unnecessary for those individuals to be licensed. Suitable alternative arrangements are defined in section 4(3) of the PSIA as “equivalent, for all practical purposes so far as the protection of the public is concerned, to those applying to persons applying for and granted licences.”

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

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

- What is being done and why

7.1 The 2001 Act was introduced to regulate the private security industry in the UK. Its objectives are to protect the public by preventing unsuitable people from working in the industry, and to improve standards within the industry.

7.2 The 2010 Regulations, which came into force in January 2011, exempted certain airside security operatives from SIA licensing if they worked in specific areas of airports. This was on the basis that the requirements for the vetting, training and monitoring of these airport security workers as required under Commission regulation (EU) 185/200 was equal to, if not more rigorous than, those required by the SIA licensing regime. The conditions encompass recruitment, vetting and training for those who work within, or control access to, a prescribed area (the Security Restricted Area, or “SRA”) of a directed airport. Under these circumstances security operatives fall under the regulation of the Department for Transport (DfT) under the National Aviation Security Programme (NASP). The 2012 Regulations extend the scope of the 2010 Regulations by removing the requirement that the licensable conduct is being carried out in a security restricted area.

- Consolidation

7.3 No consolidation is planned. The amendments to the 2010 Regulations are not extensive.

8. Consultation outcome

8.1 No formal 12 week consultation has been undertaken as these Regulations only make a technical change and there is therefore no change in policy. However, we have worked closely with DfT in drafting these Regulations. In addition, as required by section 24 of the 2001 Act, we have consulted with Scottish Ministers, the Department of Justice Northern Ireland and the SIA.

9. Guidance

9.1 The DfT has written to all parties it directs under the National Aviation Security Programme, including UK airports, to make clear which security staff are included in the exemption, and those that are not and that therefore fall within the SIA licensing regime.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies. This is because there is no change in policy.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private, voluntary or public sector is foreseen.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The extended exemption applies equally to all staff who carry out licensable activity in an airport or outside who have been recruited and trained in accordance with EU 185/2010, irrespective of the size of business that they work for.

11.3 As explained in 8.1, no consultation has been conducted with small businesses. This is because these regulations only make a technical change. There is therefore no change in policy.

12. Monitoring & review

12.1 The success criteria and intended outcome for this instrument is that the exemption in the 2010 Regulations is extended to cover all of the aviation security operatives engaging in licensable conduct who are provided to implement or be responsible for the implementation of screening, access control or other security controls having been recruited and trained in accordance with Commission Regulation (EU) 185/200.

12.2 The DfT will inform the Home Office if there are any future changes to Regulation (EU) 185/2010 which require further amendments to this instrument. The SIA Board reports annually to the Secretary of State on the operation of the legislation and the performance of the Authority in meeting its aims, and the report will be published.

13. Contact

Jason Marday at the Home Office Tel: 020 7035 6225 or email: jason.marday@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.