EXPLANATORY MEMORANDUM TO

THE TRIBUNAL SECURITY ORDER 2014

2014 No. [DRAFT]

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

2. Purpose of the Instrument

2.1. The Tribunal Security Order 2014 extends the powers afforded court security officers so that they apply to the security guard force deployed at Tribunal sites. The Order also authorises the Lord Chancellor to designate tribunal security officers.

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

3.1. None.

4. Legislative Background

4.1. Powers were provided to court security officers following the implementation of the Courts Act 2003, in which they could lawfully remove, exclude, restrain or search an individual and seize or confiscate prohibited items.

4.2. The Court Security Officer (Designation) Regulations 2005, details the specific standards required of a court security officer and the appropriate training they must have, prior to their designation. The Retention of Knives in Court Regulations 2010 prescribes the procedure to be followed when a knife is retained by court security officers.

4.3. The Lord Chancellor has made this order to allow for the designation of tribunal security officers and to apply the provisions in Part 4 of the Courts Act 2003 relating to court security, to Tribunals. The Order also modifies the Court Security Officer (Designation) Regulations 2005 and the Retention of Knives in Court Regulations 2010 so as to apply to tribunal security officers.

5. Territorial Extent and Application

5.1. The Regulations apply to England and Wales.

6. European Convention on Human Rights

6.1. The Parliamentary Under Secretary of State for Justice, Shailesh Vara, has made the following statement regarding Human Rights:

In my view the provisions of the Tribunal Security Order 2014 are compatible with the Convention Rights.

7. Policy Background

7.1. The Tribunal Security Order 2014 applies the same powers and standards to the Tribunal site guard force, as that applied to Court sites since the implementation of the Courts Act 2003. The processes for ensuring the suitability of those designated will be same as those applied to court security officers, as will be the level of training provided, so that they can fulfill their duties and exercise their powers effectively.

8. Consultation Outcome

8.1. Due to the fact that these Regulations are procedural (and therefore of limited public interest) and would have no impact on persons outside court premises no formal consultation was considered necessary on this occasion.

9. Guidance

9.1. So as to be assured that there is an adequate guard force in place to undertake the roles and responsibilities in line with the Tribunal Security Order. HMCTS have been working closely with the relevant stakeholders to ensure that the appropriate level of training has been initiated.

9.2. Ahead of implementation all Tribunal Service sites will display public notices to forewarn court users of the new security policy.

10. Impact

10.1 There is no impact on business, charities or public bodies.

10.2 There is no impact on the public sector.

10.3 No Regulatory Impact Assessment has been prepared because there is no regulatory impact on any part of the private or voluntary sector.

11. Regulating Small Business

11.1 The regulations do not apply to small businesses.

12. Monitoring and Review

12.1 These Regulations will be kept under review by the Ministry of Justice and the Executive Agency responsible for the administration of courts, Her Majesty's Courts and Tribunals Service.

13. Contact

Any enquiries about the contents of this memorandum should be addressed to:

Andrew Whyman, Her Majesty's Courts and Tribunals Service (HMCTS) Security and Safety 2nd Floor, 102 Petty France, London SW1H 9AJ.
Telephone: 020 3334 2521 Email: hmctssecsaf@hmcts.gsi.gov.uk