EXPLANATORY MEMORANDUM TO

THE PRIVATE SECURITY INDUSTRY (LICENCES) (AMENDMENT) REGULATIONS 2006

2006 No. 3410

THE PRIVATE SECURITY INDUSTRY ACT 2001 (DURATION OF LICENCE) (No.2) ORDER 2006

2006 No. 3411

1. 1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The Private Security Industry (Licences) (Amendment) Regulations 2006 are made under the Private Security Industry Act ("the 2001 Act") and amend the existing Private Security Industry (Licences) Regulations 2004 (SI 2004/255). In particular they: extend the existing regulations to Scotland; remove the need for duplicate licences by ensuring that persons holding a CCTV licence can also undertake Security Guard-related CCTV activities; allow a non-front line licence in respect of a particular category of licensable activity to be valid for non-front line conduct involving any category of licensable activity; and ensure that contractors require a CCTV licence on licensed premises as well as on non-licensed premises.

2.2 The Private Security Industry Act 2001 (Duration of Licence) (No. 2) Order 2006 makes provision in relation to the duration of licences under the 2001 Act. It consolidates and repeals the current Private Security Industry Act 2001 (Duration of Licence) Order 2006 (SI 2006/427). It extends to Scotland and changes the duration of a licence issued by way of renewal to ensure that such a licence can only include up to three months of the unexpired licence.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 These regulations come into force on 1 February 2007 and breach the common commencement date for legislation affecting business. We regret that this has been necessary to enable applications for licences in Scotland to be made from 1 February 2007 in accordance with an earlier undertaking.

4. Legislative Background

4.1 The 2001 Act received Royal Assent on 11 May 2001. The 2001 Act included powers for the creation of the SIA as the regulator of the private security industry and set out a number of sectors within that industry that are or will be subject to regulation by the SIA in England and Wales.

4.2 Within England and Wales: door supervisors have required licences since June 2004 (following geographic roll-out); those who immobilise, restrict or remove vehicles have required licences since February 2005; and the manned guarding sector (which comprises the categories of security guards, cash and valuables in transit, close protection and public space surveillance CCTV operators) and the keyholder sector have required licences since 20 March 2006. Private investigators and security consultants are not yet required to be licensed.

4.3 Scottish Commencement Orders that extend the remit of the SIA to Scotland came into force in July 2006. Persons will apply for licences to undertake licensable conduct in Scotland from 1 February 2007 before (Scottish) Statutory Instruments are made to make licensing compulsory from November 2007. Vehicle immobilisation activities do not extend to Scotland and it is intended that the activities of vehicle restriction and removal will not extend to Scotland.

4.4 This Order and these Regulations are needed to extend existing provision in respect of licences issued under the 2001 Act to Scotland and to make further provision in respect of licences issued across Great Britain. They extend to Scotland existing provision regarding the format, conditions and duration of a licence and the licence application and fee and make further provision regarding the scope of a licence and the duration of a licence issued by way or renewal.

4.5 The Department intends to consolidate SI 2004/255, which is amended by these Regulations, from 6 April. It was not considered desirable to consolidate at this stage since a further amendment (a licence fee increase) needs to be made but can only be made following the making of an order under section 102 of the Finance (No 2) Act 1987.

5. Territorial Extent and Application

5.1 These instruments apply to England and Wales and Scotland.

6. European Convention on Human Rights

6.1 As these instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy Background

7.1 The 2001 Act was intended to increase standards and remove criminality within the private security industry by introducing a regulatory regime that was proportionate to the risks posed to the public.

7.2 Both these instruments are necessary to extend to Scotland from 1 February 2007 existing instruments made under the 2001 Act that currently apply only to England and Wales.

7.3 These Regulations are necessary to reduce the legislative burden on the industry by: ensuring that persons holding a CCTV licence can undertake Security Guard-related CCTV activities without holding a second licence; and enabling a non-front line licence in respect of a particular category of licensable activity to be valid for non-front line conduct involving any category of licensable activity.

7.4 These Regulations also ensure that a contractor who undertakes CCTV activities as well as security activities on a licensed premises is required to hold a CCTV licence as well as a Door Supervisor licence since the training required for those two activities is distinct.

7.5 The Order is necessary to ensure that a licence issued by way of renewal can only incorporate up to three months of the applicant's existing licence and so ensures that CRB checks are sufficiently recent for licensing purposes.

8. Impact

8.1 Various Regulatory Impact Assessments have been published on regulations to implement the Private Security Industry Act 2001. These include manned guards and keyholders (which included Security Guards, CCTV operatives and non-front line operatives) in February 2005, and Door Supervisors and Vehicle Immobilisers in January 2004.

8.2 A formal consultation exercise was conducted by Scottish Ministers in 2001 which sought stakeholders' comments on proposals for a Scottish Private Security Industry regulatory regime. The option of using the SIA was comprehensively supported. Additionally, a RIA was published with the passage of the Serious Organised Crime and Police Act 2005 through Parliament. This set out the manner in which regulation would be introduced in Scotland. The legislation was also subject to a Legislative Consent Motion in the Scottish Parliament which was debated on 2 February 2005.

9. Contact

9.1 John Cairncross at the Home Office Telephone: 020 7035 0227 or e-mail: john.cairncross@homeoffice.gsi.gov.uk can answer any queries regarding these instruments.