# EXPLANATORY MEMORANDUM TO

# THE PRIVATE SECURITY INDUSTRY ACT 2001 (LICENCES) REGULATIONS 2007 (AMENDMENT) REGULATIONS 2011

## 2011 No. 2156

**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 To amend the Private Security Industry Act 2001 (Licences) Regulations 2007 ("the 2007 Regulations") so that the application form is no longer required to be included in a schedule to the regulations. Instead, the regulations will provide that the form of the application and the information be provided upon making an application must be as determined by the Security Industry Authority ("the SIA").

## 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 remove the application form prescribed directly in the regulations. Instead, the form of the application and the information to be provided will have to be as determined by the SIA. The SIA will display on its website the required form or mode of application and the information which must accompany an application.

4.2 The Private Security Industry Act 2001 ("The PSIA") permits the Authority to issue licences. Section 8(2) requires licence applications to be in a form and to supply such information as regulations may prescribe. In the PSIA "prescribed" means prescribed by regulations made by the Secretary of State, or determined in any such manner and by such person as may be provided for in any such regulations. Therefore it is sufficient for regulations to provide that the form of the application and the information to be provided upon making an application must be as determined by the Authority.

## 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 PSIA 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 Home Office wishes to move away from having a copy of the application form itself in regulations. This means that the form of the licence application and the information required when applying for a licence would be determined by the SIA and not set out in regulations.

7.3 Since 2004 the application form has been prescribed directly in the regulations as set out in regulation 3 of and Schedule 1 to the 2007 Regulations. These regulations amend the 2007 Regulations by substituting a new regulation 3 and omitting Schedule 1 so that the application form is no longer prescribed directly in the regulations.

7.4 The benefits to making this amendment to the Regulations would mean that should the SIA make any further amendments to the application form an amendment to the Regulations would not be required. There will also be cost savings for the SIA and a reduction in administrative burden to the SIA since it is estimated by the SIA that 80% of renewing applicants have no changes in their circumstances, yet they still need to complete their full application form and send supporting documents. If the process could be changed so that renewal applications did not have to complete the form, if their circumstances had not changed, then this would significantly reduce the administrative burden and increase the SIA's operational efficiency.

7.5 The SIA explored with the Home Office two possible options. The first, which was eventually preferred, is to amend the 2007 Regulations so that the application form is no longer prescribed in them. The second option required a new set of regulations that listed the specific information required as part of the application process. This option was rejected on the basis that it would not facilitate changing technologies, would not reduce the burden of legislative constraints on the SIA and would require legislative change each time the requirements changed. The option adopted ensures a greater degree of flexibility of application method while continuing the current protections afforded to both the applicant and the regulator.

7.6 Exploring alternative application routes that reduce costs and administrative burden is consistent with the 'Better Regulation' agenda and principally with the Hampton Principle of encouraging economic progress. Alternative application routes and a streamlined renewal process also address the Hampton Principle of simplifying information requirements. Although effective regulation requires accurate information, there are costs to its collection both to the regulator and to regulated entities and in view of this, it is important that applicants should not have to give unnecessary information or give the same piece of information twice as they do now under the current system if they are renewing their licence.

7.7 The SIA is strongly committed to the principles of good regulation and to reducing administrative burdens in particular to individuals and small businesses (which do not have the economies of scale of larger organisations) through simplifying its application form in 2007. These proposals seek to build on the progress already achieved in this important area.

- ***Consolidation***

7.8 As the 2011 regulations make only modest textual amendments to the 2007 Regulations, no consolidation is planned.

## 8. Consultation outcome

8.1 No formal 12 week consultation has been undertaken. This is because these regulations only make a technical change to ensure that applications can continue to be submitted, although the format and method of application is broader. There is therefore no change in policy. We have consulted with Scottish Ministers, the Department of Justice Northern Ireland, and the SIA.

## 9. Guidance

9.1 The SIA will update their website to make clear the new methods of application that will be permitted following the amendments.

## 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 As this instrument has no adverse impact, no action has been taken to minimise its impact on firms employing up to 20 people. , The approach taken is that the application form process applies equally to all those who carry out licensable activity, regardless of the size of business that they work for. Therefore any businesses, regardless of size will benefit from the less burdensome, quicker application process.

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 to ensure

that applications are able to be submitted via a variety of methods and processed efficiently. There is therefore no change in policy.

## 12. Monitoring & review

12.1 The success criteria and intended outcome for this instrument is the reduction of administrative burdens on applicants. The will also lead to increased operational efficiency through simplification of process within the SIA.

12.2 The SIA will inform the Home Office if there are any future changes which may require further amendments to the 2007 Regulations. 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

John Cairncross at the Home Office Tel: 020 7035 0227 or email: john.cairncross@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.