EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY (LICENCES) (AMENDMENT) (NO. 2) REGULATIONS 2005

2005 No. 2118

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

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

2. Description

2.1 These Regulations amend the Private Security Industry (Licences) Regulations 2004 ("the 2004 Regulations"). Regulations 3 and 4 of the 2004 Regulations prescribe the form which a licence issued by the Security Industry Authority under the Private Security Industry Act 2001 ("the 2001 Act") must take and the conditions that must be attached to such a licence where the licence relates to those licensable activities contained in paragraphs 3 (immobilisation of vehicles), 3A (removal and restriction of vehicles) or 8 (door supervisors etc for public houses, clubs and comparable venues) of Schedule 2 to the Act. At present, a licence of the form specified in Schedule 2 to the 2004 Regulations is given to persons performing front-line activities (licensable conduct falling under section 3(2)(a), (b), (c), (h) or (j) of the 2001 Act) and a licence of the form specified in Schedule 3 to the 2004 Regulations is given to persons performing non-front-line activities (licensable conduct falling under section 3(2)(d), (e), (f), (g) and (i) of the 2001 Act). Regulations 4 and 5 of these Regulations extend Regulations 3 and 4 of the 2004 Regulations to cover licences issued in respect of licensable activities contained in paragraphs 2 (manned guarding) and 6 (keyholding) of Schedule 2 to the Act. Persons undertaking keyholding activities will be required to have the same licence (of the form specified in Schedule 3 to the Regulations) whether they perform front-line or non-front-line activities.

2.2 Regulation 4(2)(a) of the 2004 Regulations requires a licensee who undertakes front-line activities to display his licence on his person when carrying out his activities. (This requirement is not going to apply to persons performing front-line keyholding activities because such persons are not required to hold a licence specified in Schedule 2 to the Regulations.) Regulation 5 of these Regulations amends the 2004 Regulations to provide that such a licensee is not required to display his licence where he undertakes licensable activities to which paragraph 3 or 3A of Schedule 2 to the Act does not apply and can demonstrate that the nature of his licensable activities on any specific occasion requires that he not be immediately identifiable as someone carrying out licensable activities and where he carries his licence on his person and is able to produce it on request.

2.3 Regulation 6 inserts a new regulation 4B (scope of licence) into the 2004 Regulations which provides for licence integration. This enables a person holding a licence for certain types of licensable conduct (front-line or non-front-line) and in respect of certain categories of licensable activity (as defined in regulation 3 of these regulations) to also perform other specified types of licensable conduct and specified

categories of licensable activity without holding a separate licence. In this way, a person who has a licence to undertake, in the front-line, a particular category of licensable activity can also undertake the same category of licensable activity in a non-front-line capacity or, where provided for in table 1, a different category of licensable activity in a front-line or non-front-line capacity. Further, a person who has a licence to undertake, in a non-front-line capacity, a particular category of licensable activity can also, where provided for in table 1, undertake a different category of licensable activity in a non-font-line capacity. Finally, a person who holds a licence to undertake, in either a front-line or non-front-line capacity, a category of licensable activity other than keyholding, may also undertake front-line or non-front line key holding activities.

2.4 Regulation 7 provides that licensees who are granted more than one licence can in certain circumstances seek a refund of 50% of their licence fee in respect of their additional licences. The refund applies where the full price was paid for the first licence, the first licence remains valid for a period of at least 4 months when the additional licence is granted and the additional licence does not relate to the immobilisation, removal or restriction of vehicles and relates to a licensable activity which is not covered by the initial licence.

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

3.1 Due to the holiday period, the Home Office regrettably did not lay this instrument 21 days before it comes into force and apologises for the failure. The instrument was laid the following working day (18 days before it comes into force).

4. Legislative Background

4.1 The Private Security Industry Act 2001 received Royal Assent on 11 May 2001. The Act included powers for the creation of the Security Industry Authority ("SIA") as the regulator of the private security industry.

4.2 The sectors (licensable activities) within the private security industry that will be subject to regulation by the SIA are door supervisors, vehicle immobilisers (including the removal and restriction of vehicles), manned guards, keyholders, security consultants and private investigators.

4.3 The SIA commenced the regulation of door supervisors on a geographical basis from 1 March 2004, and this was completed by 11 April 2005. The requirement to hold an SIA licence to undertake vehicle immobiliser activities commenced on 3rd May 2005 when those activities were designated for that purpose. 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, are required to hold a licence from 20 March 2006. The smaller groups of private investigators and security consultants will be licensed in future years.

5. Extent

5.1 This instrument applies to England and Wales

5.2 Although the remit of the Security Industry Authority will be extended to cover Scotland at some time in the future by provisions in the Serious Organised Crime and Police Act 2005, this has not yet happened so Scotland currently falls outside the remit of the SIA.

6. European Convention on Human Rights

6.1 No statement is required..

7. Policy background

7.1 The 2001 Act was brought in to regulate the private security industry in England and Wales. The industry has grown substantially in recent years and its work has changed from a largely passive role into one with far greater and more active contact with the public. Previously there had been little or no self-regulation and standards across all sectors of the industry varied widely. The 2001 Act was passed to protect and reassure the public by preventing unsuitable people getting into positions of trust, and to raise standards generally in the industry.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for these regulations as they have no impact on business, charity or voluntary bodies.

8.2 The impact on the public sector is not considered to exceed the Public Service Threshold Test.

9. Contact

John Cairncross at the Home Office Tel: [0207 035 0227 or e-mail: john.cairncross@homeoffice.gsi.gov.uk] can answer any queries regarding this Order.