

*This Explanatory Memorandum refers to the Private Security Industry Act 2001
(Amendment) (Northern Ireland) Order 2009 (N.I. 2)*

**EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY ACT 2001 (AMENDMENT)
(NORTHERN IRELAND) ORDER 2009**

2009 No. 3017 (N.I. 2)

1. 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to make a number of minor amendments to the Private Security Industry Act 2001 (the 2001 Act), which sets up a regulatory regime for the private security industry. The Order is being made as the 2001 Act has recently been extended to Northern Ireland and these minor amendments are needed to ensure the Act takes account of Northern Ireland legislation. The amendments will ensure that the 2001 Act operates in Northern Ireland as it does in the rest of the United Kingdom.

2.2 This instrument will come into force on the day after the day it is made.

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

3.1 None.

4. Legislative Context

4.1 The 2001 Act sets out a system for the statutory regulation of the private security industry by a non-Departmental Public Body, the Security Industry Authority (SIA), set up under sections 1 and 2 of and Schedule 1 to the Act. The SIA has responsibility for licensing individuals to work within designated sectors of the private security industry.

4.2 Under the 2001 Act any individual who carries out an activity that has been designated under section 3(3) of the Act is required to hold a licence issued by the SIA. It is an offence under section 3(1) of the 2001 Act to carry out a designated activity without a licence.

4.3 The activities that have been designated to date in England, Wales and Scotland include the guarding of people, property and premises, and the immobilisation of vehicles that are not on public roads (wheel clamping). No activities have been designated in Northern Ireland as the 2001 Act has only recently been extended to Northern Ireland.

4.4 The aim of the Home Office and the Northern Ireland Office (NIO) is that the majority of activities that are currently designated under the 2001 Act in relation to England and Wales, and Scotland, will be designated in Northern Ireland from December 2009 onwards¹. The effect of the designation will be that these activities can only be carried out legally in Northern Ireland with an SIA Licence. Once this has been done there will be a unified regime for the regulation of the private security industry across the United Kingdom.

4.5 The instrument covered by this memorandum is intended to make amendments to the 2001 Act in advance of December 2009 to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.

4.6 The first amendment relates to an exemption in section 4 of the 2001 Act for those working in certain sports grounds from any requirement to hold a licence under the Act. The exemption does not currently apply in Northern Ireland, as it is defined by reference to the Safety of Sports Grounds Act 1975 and the Fire Safety and Places of Sport Act 1987, neither of which extends to Northern Ireland. The amendment will extend the exemption to Northern Ireland by adding references to the equivalent Northern Ireland legislation, the Safety of Sports Grounds (NI) Order 2006.

4.7 The second amendment relates to Schedule 2 which lists the various activities that can be designated under the 2001 Act (the designation triggers the requirement to hold an SIA Licence). One of the activities listed at paragraph 8 of Schedule 2 is the work of door supervisors or other security personnel in licensed premises. The definition of licensed premises in paragraph 8(2) of the Schedule currently only refers to licensed premises in England and Wales and Scotland. The amendment will add references to licensed premises in Northern Ireland ensuring that door supervisors in Northern Ireland will be subject to the same licensing requirements as apply to door supervisors working in the rest of the United Kingdom (once this particular activity has been designated in relation to Northern Ireland under the Act).

4.8 Further instruments are planned under the powers to pass secondary legislation provided by the 2001 Act which will make some additional amendments to Schedule 2 to the 2001 Act in order to take account of Northern Ireland legislation and to designate licensable activities in Northern Ireland. Once these have been made the licensing scheme under the 2001 Act will be fully operational in Northern Ireland.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

5.2 This instrument amends legislation that extends to the United Kingdom as a whole, to ensure that the legislation operates uniformly in all parts of the United Kingdom.

¹ One important exception to this will be the work of in-house door supervisors, which will not be designated in Northern Ireland until April 2010 although it is currently a designated activity in the rest of the United Kingdom.

6. European Convention on Human Rights

6.1 Paul Goggins the Minister of State for Northern Ireland has made the following statement regarding Human Rights:

In my view the provisions of the Private Security Industry Act 2001 (Amendment) (Northern Ireland) Order 2009 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 Northern Ireland Ministers have given a commitment to extend the statutory scheme under the 2001 Act for the licensing of the private security industry by the SIA to Northern Ireland. Current interim arrangements under the Justice and Security (Northern Ireland) Act 2007 require persons offering or providing security guard services for reward to obtain a licence from the Secretary of State. As explained previously this Order is needed to make minor amendments to the 2001 Act to ensure that the licensing regime under the Act operates in Northern Ireland as it does in the rest of the United Kingdom.

- Consolidation

7.2 No consolidation is planned.

8. Consultation outcome

8.1 A consultation document entitled 'Regulating the Private Security Industry in Northern Ireland' was circulated to organisations representing the private security industry, political parties, relevant local authority organisations, and a wide variety of other organisations with an interest in or who use private security services in August 2006. This document set out the options for regulation and highlighted the Government's preference, which was to extend the remit of the SIA to Northern Ireland.

8.2 The Government invited responses from organisations and individuals. The consultation paper included and welcomed comments on the results of the Equality Screening of these proposals, in line with the Department's Equality Scheme. The consultation formally closed on 24 October 2006.

8.3 Of the responses received from security companies, all were strongly in favour of the proposals to extend the remit of the SIA to Northern Ireland. This view was shared by the local authorities, the Police Service of Northern Ireland and the British Security Industry Association, the trade association covering all aspects of the professional security industry in the UK.

8.4 No separate public consultation on the proposed draft order has been carried out as it is intended only to make minor amendments to the 2001 Act

to ensure that the regime in Northern Ireland mirrors that already in place in the rest of the United Kingdom.

8.5 A document containing a draft of this Order has been laid with Parliament for 60 days and referred to the Northern Ireland Assembly, as required by section 85(4) of the Northern Ireland Act 1998. The Secretary of State is obliged under section 85(6) of the Northern Ireland Act 1998 to summarise any representations made by either House of Parliament or the Northern Ireland Assembly during this period and to provide a copy of any report prepared on the draft by Parliament or the Assembly. A summary of a report produced by an ad hoc committee of the Northern Ireland Assembly during this period is appended to this memorandum, along with a copy of the report itself. No representations were made by either House of Parliament.

9. Guidance

9.1 No guidance will be issued with this instrument. The SIA and the NIO are committed to ensuring that stakeholders have all the guidance and information required to engage with the implementation process through a comprehensive marketing and communications campaign.

10. Impact

10.1 The impact on business, charities or voluntary bodies is firstly that those providing security services in sports grounds in Northern Ireland will be exempt from any requirement to have an SIA Licence. Secondly those working as door supervisors in licensed premises in Northern Ireland will be covered by the licensing regime under the 2001 Act.

10.2 The impact on the public sector would be in cases where public sector bodies provide private security services to external customers under contract.

10.3 The impact assessment “Proposals to Regulate the Private Security Industry in Northern Ireland” was published in November 2006 and is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is that licensing costs are priced per individual. The cost burdens are thus directly related to the size of companies, so there is no undue burden on small firms. In developing the original proposals for SIA regulation the SIA consulted widely both with trade associations and directly with small businesses. The SIA has sought to ensure that communication with the industry is targeted to ensure that small businesses are informed about the forthcoming legislation and licensing process. This has been done through publications, engagement in stakeholder user groups and information events for the industry.

12. Monitoring & review

12.1 The SIA Board will report 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. In addition, the SIA will publish annually its accounts and corporate and business plan.

13. Contact

Gavin Greenlees at the Northern Ireland Office Tel: 028 9052 77688 or email: Gavin.Greenlees@nio.x.gsi.gov.uk can answer any queries regarding the instrument.

**SUMMARY OF A REPORT OF THE NORTHERN IRELAND ASSEMBLY
ON THE PRIVATE SECURITY INDUSTRY ACT 2001 (AMENDMENT)(NI)
ORDER 2009**

1. A document containing a draft of the Private Security Industry Act 2001 (Amendment) (NI) Order 2009 (“the draft Order”) was laid with Parliament and referred to the Northern Ireland Assembly on 12 May 2009 as required by section 85(4). This is a summary of a report on the draft Order produced by an ad hoc committee of the Northern Ireland Assembly² (“the committee”) which has been prepared in accordance with section 85(6)(a) of the Northern Ireland Act 1998.

Summary of representations

2. The committee made its formal report to be submitted to the Secretary of State on 29 June 2009 which the Northern Ireland Assembly approved by a resolution of the Assembly on that same day.
3. The committee did not propose that any changes be made to the drafting of the order. Their main recommendations were as follows:
 - The process (of extending the licensing regime under the Private Security Industry Act 2001 to Northern Ireland) should be slowed down to allow for further and fuller debate.
 - As a general recommendation there should be earlier consultation with the Assembly on legislative proposals. The NIO should in future ensure that the Assembly is in a position to avail itself of the full sixty day statutory consultation period provided for orders under section 85 of the Northern Ireland Act 1998.
 - In light of a recent National Audit Office report on the SIA the NIO should satisfy itself that the SIA has the capacity to cope with any extra workload that would result from the extension of its remit to Northern Ireland.
 - Applicants should be told in advance if they are going to be turned down on security grounds.
 - Where the training and licensing of company directors is required by the Private Security Industry Act 2001 consideration should be given to limiting this requirement to a single nominated director.
 - There appears to be some dispute over the costs of the various schemes that could potentially be put in place to regulate the private security industry. The NIO should look again at this issue in the light of all the evidence in this report.

² The full name of the committee was the *Ad Hoc Committee on the Private Security Industry Order 2009*: the committee was set up on 18th May 2009.

- The NIO should consider a formal appraisal of the available options for licensing the private security industry.

The Minister of State for Northern Ireland, Rt. Hon. Paul Goggins MP considered the recommendations made by the report; however no changes have been made to the Order as a result of the Assembly's representations.

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