

**EXPLANATORY MEMORANDUM TO THE  
COURT SECURITY OFFICERS (DESIGNATION) REGULATIONS 2005**

**2005 No. 588**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty

**2. Description**

2.1. These Regulations authorise the Lord Chancellor to stipulate training courses to be completed and the conditions to be met before any person may be designated as a court security officer.

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

3.1. None

**4. Legislative Background**

4.1. Part 4 of the Courts Act 2003 (sections 51-57) makes provision about security officers and related matters. It replaces sections 76 to 78 of the Criminal Justice Act 1991, which provided for court security officers in magistrates' courts, and introduces statutory backing for the role of court security officers across the whole of the court estate in England and Wales. These Regulations are made under section 51.

**5. Extent**

5.1. The Regulations apply to England and Wales.

**6. European Convention on Human Rights**

6.1. There are no human rights implications.

**7. Policy Background**

7.1. There is currently no uniform provision for court security across the courts in England and Wales. In addition, there has been a gradual reduction of a permanent police presence in courts. Many courts may therefore have limited security provision in place.

7.2. Lord Justice Auld, in his Review of the Criminal Courts in England and Wales (October 2001) noted this situation and, at paras. 103 - 116 of his report made recommendations for the introduction of court security officers with effective

and consistent powers across all the courts in England and Wales. Part 4 is in response to Lord Justice Auld's recommendations.

- 7.3. To ensure consistently effective coverage, training must be undertaken before a person can be designated as a court security officer. Lord Hunt of Wirral moved an amendment during the Courts Bill's passage through Parliament to place a *duty* on the Lord Chancellor to make regulations for this purpose (Hansard, 11 February 2003, House of Lords Committee, Column 587). Although the amendment was defeated on a vote, it was always the Lord Chancellor's intention to make regulations for this purpose, given the key role of court security officers.
- 7.4. There will be limited interest in these Regulations outside the criminal justice system. Among those consulted, who include the judiciary, the magistrates' courts community including the Magistrates' Association, the existing Court Service community, the Justices' Clerks' Society, key Trade Unions and existing security staff, there is general support for these provisions.
- 7.5. The proposed Regulations for training and conditions to be met received some criticism during the consultation period. These criticisms centred round the provisions not being rigid enough. These concerns have been incorporated into the Regulations by identifying the particular areas of training that must be demonstrated by a person who is to be appointed and designated as a court security officer. In addition to this, the SI empowers the Lord Chancellor to require court security officers to undertake further training not specifically covered in the Regulations. The Regulations impose minimum requirements on the Lord Chancellor himself, but through the employment relationship and as appropriate, contractual relationships, much more detailed requirements may be imposed in order to regulate the training provided. This also addresses the concerns raised during the debate on these provisions (Hansard reference 11 February 2003/ House of Lords Committee/ column 588) that the training provided must be properly regulated. This addresses these concerns by enabling the Department to allow a degree of flexibility to the provisions as well as ensuring the best available service.
- 7.6. Concerns were also raised during the Courts Bill's passage through the House of Lords regarding the conditions to be met before a person was designated a court security officer. It was agreed during the debate that a criminal record check will be undertaken for all court security officers (Hansard, 11 February 2003, Committee, column 592). These Regulations reflect this.

## **8. Impact**

- 8.1. No Regulatory Impact Assessment has been prepared because there is no regulatory impact on any part of the private or voluntary sector. It is expected that should any services from the private sector be procured in the future the key

requirements of these provisions must be provided before any award. These provisions also complement the Private Security Industries Act. There are no implications for the Exchequer.

## **9. Contact**

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