

**EXPLANATORY MEMORANDUM TO
THE PRIVATE SECURITY INDUSTRY ACT 2001 (DESIGNATED
ACTIVITIES) (AMENDMENT NO. 2) ORDER 2006**

2006 No. 1804

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 The Private Security Industry Act 2001 (Designated Activities) (Amendment No. 2) Order 2006 amends the Private Security Industry Act 2001 (Designated Activities) Order 2006 (“the designation Order”). The designation Order designated manned guarding activities for the purpose of requiring them to be licensed under the Private Security Industry Act 2001 (“the 2001 Act”). This made it a criminal offence to undertake licensable conduct involving manned guarding activities without a Security Industry Authority (SIA) licence from the 20th March 2006.

2.2 This Order removes the amendments made to the designation Order by the Private Security Industry Act 2001 (Designated Activities) (Amendment) Order 2006 (“the amending Order”), and revokes the amending Order. The amending Order removed from the requirement to be licensed several groups of persons who work under contract for the prison service, immigration service and the police. The amending Order is no longer required because all the groups it covers are also covered by the Private Security Industry Act 2001 (Amendments to Schedule 2) Order 2006 (“the affirmative Order”) which comes into force on the same day as this Order.

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

3.1 This Order needs to come into force on the same day as the affirmative Order comes into force because it revokes provisions which are mirrored in the affirmative order. The affirmative Order comes into force on 11 July; the day after it was made. It was not possible to delay the making of the affirmative order due to the need to remove certain persons from the scope of the 2001 Act without delay. For this reason, this Order breaches the 21 day rule. The Home Office regrets this breach of procedure. This Order is being issued free of charge to all known recipients of the amending Order.

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.

4.2 The sectors (licensable activities) within the private security industry that are or 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 March 2004, and this was completed by April 2005. The requirement to hold an SIA licence to undertake vehicle immobiliser activities commenced in May 2005. 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, has been required to hold a licence since 20th March 2006. The smaller groups of private investigators and security consultants are not yet required to be licensed.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation, 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 excluding criminal elements, creating a voluntary accreditation scheme for firms, and raising standards in the industry.

7.2 On 20 March 2006 it became an offence to work as a manned guard without an SIA licence. The amending Order came into force on that date to remove certain groups from the requirement to be licensed. This included several groups of persons who work under contract for the prison service, immigration service, and the police. The EM for the amending Order explained that it was being laid because work on an affirmative Order took longer than expected and ran out of time, and the date on which licensing

became mandatory could not itself be deferred until the Order was ready, without the greatest inconvenience to the security industry.

7.3 The Home Office explained in the earlier EM that it considered the decision to remove these persons from the licensing requirement to be one that would benefit from scrutiny by both Houses. Therefore the Affirmative Order was prepared to honour that commitment. The affirmative Order covered all those groups included in the amending Order, and also included some additional activities.

7.4 This instrument is necessary to revoke the amending Order and remove the amendments it made to the designation Order, because the Affirmative Order, which comes into force on the same day as this Order does, removes the same activities from the scope of the 2001 Act.

8. Impact

8.1 A Regulatory Impact Assessment was attached to the Explanatory Memorandum for the Private Security Industry Act 2001 (Designated Activities) Order 2006. No separate Regulatory Impact Assessment has been carried out for this instrument.

8.2 The impact on the public and private sector is minimal. So far as we are aware none of those affected by this order have acquired licences.

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.