Northern Ireland (Emergency Provisions) Act 1991

1991 CHAPTER 24

PART V

REGULATION OF THE PROVISION OF PRIVATE SECURITY SERVICES

35 Prohibition on provision of security services without a certificate

(1) A person shall not provide, or offer to provide, security services for reward, unless he is, or is acting on behalf of, the holder of a certificate in force under this Part of this Act.

(2) A person shall not publish, or cause to be published, any advertisement for the provision of such services by a person who is not the holder of such a certificate.

(3) Any person who contravenes subsection (1) or (2) above is guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(4) Where a person is charged with an offence under this section in respect of an advertisement it shall be a defence for him to prove—

(a) that he is a person whose business it is to publish or arrange for the publication of advertisements; and

(b) that he received the advertisement for publication in the ordinary course of business; and

(c) that he had reasonable grounds for believing that the person advertised as the provider of the security services in question was the holder of a certificate in force under this Part of this Act.

(5) In this Part of this Act "security services" means the services of one or more individuals as security guards (whether with or without any other services relating to the protection of property or persons).

36 Applications for certificates

(1) An application for a certificate under this Part of this Act—

(a) shall be made to the Secretary of State in such manner and form as he may specify, and

(b) shall be accompanied by such information as he may specify concerning—

(i) the applicant;

(ii) any business carried on or proposed to be carried on by the applicant and involving the provision of security services for reward;

(iii) any persons whom the applicant employs, or proposes to employ, as security guards;

(iv) any partners or proposed partners of the applicant or (if the applicant is a partnership) the members, and any proposed members, of the partnership; and

(v) if the applicant is a body corporate, the officers, and any proposed officers, of that body.

(2) Any person who, in connection with any such application, knowingly or recklessly furnishes the Secretary of State with information which is false or misleading in a material respect is guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(3) In this section—

(a) "officer" includes a director, manager or secretary; and

(b) any reference to the employment or proposed employment of any person or persons by an applicant for a certificate under this Part of this Act shall, in relation to an applicant who is, or is a member of, a partnership, be construed as a reference to the employment or proposed employment of any person or persons by the partnership or any of the partners.

(4) For the purposes of this section a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act shall be treated as an officer of that body, except that a person shall not be so treated by reason only that the directors act on advice given by him in a professional capacity.

37 Issue, duration and revocation of certificates

(1) Where an application for a certificate under this Part of this Act has been made to the Secretary of State in accordance with section 36 above, the Secretary of State may only refuse to issue such a certificate to the applicant in a case where he is satisfied that an organisation falling within subsection (8) below would be likely to benefit from the issue of the certificate or that the applicant has persistently failed to comply with the requirements of this Part of this Act; and if the Secretary of State refuses to issue a certificate he shall notify the applicant of the refusal.

(2) A certificate under this Part of this Act shall come into force at the beginning of the day on which it is issued and, subject to subsection (3) below, shall expire at the end of the period of twelve months beginning with that day.

(3) Where the certificate is issued to a person who already holds a certificate in force under this Part of this Act, the new certificate shall expire at the end of the period of twelve months beginning with the day following that on which that person's current certificate expires.

(4) The Secretary of State may from time to time by order substitute for the period specified in each of subsections (2) and (3) above such period exceeding twelve months as is specified in the order.

(5) Subject to subsection (6) below, the Secretary of State may revoke a certificate in force under this Part of this Act if he is satisfied that an organisation falling within subsection (8) below would be likely to benefit from the certificate remaining in force or that the holder of the certificate has persistently failed to comply with the requirements of this Part of this Act.

(6) The Secretary of State shall not revoke a certificate under subsection (5) above unless the holder of the certificate—

(a) has been notified of the Secretary of State's intention to revoke it, and

(b) has been given a reasonable opportunity of making representations to the Secretary of State.

(7) If the Secretary of State revokes a certificate under subsection (5) above, he shall forthwith notify the holder of the certificate of its revocation.

(8) An organisation falls within this subsection if—

(a) it is for the time being a proscribed organisation; or

(b) it appears to the Secretary of State to be closely associated with an organisation which is for the time being a proscribed organisation.

(9) In this section "benefit" means benefit whether directly or indirectly and whether financially or in any other way.

38 Duty to notify Secretary of State of changes of personnel

(1) Where—

(a) an application has been made by any person under section 36 above, and

(b) that person proposes to employ a person as a security guard as from a relevant time, and

(c) information concerning the proposed employee was not furnished to the Secretary of State in pursuance of section 36(1)(b)(iii) at the time when the application was made,

the person who made the application shall, not later than fourteen days before that relevant time, notify to the Secretary of State such information concerning the proposed employee as the Secretary of State may specify.

(2) Where an application has been made by any person under section 36 above, that person shall notify to the Secretary of State such information concerning any change to which this subsection applies as the Secretary of State may specify, and shall so notify any such information—

(a) not later than fourteen days before the change occurs; or
(b) if that is not reasonably practicable, as soon as is reasonably practicable.

(3) Subsection (2) above applies—
(a) in relation to an application made by a partnership or by a member of a partnership, to any change occurring at a relevant time in the members of the partnership, and
(b) in relation to an application made by a body corporate, to any change occurring at a relevant time in the officers of that body,

unless the change involves a person becoming a partner or officer and information relating to that change was furnished to the Secretary of State in pursuance of section 36(1)(b)(iv) or (v) above at the time when the application was made.

(4) Any person who contravenes subsection (1) or (2) above is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(5) In this section "relevant time", in relation to an application made under section 36 above, means a time when—
(a) the application has been neither granted nor refused by the Secretary of State; or
(b) a certificate issued in pursuance of the application is in force under this Part of this Act;

and subsections (3) and (4) of that section apply also for the purposes of this section.

39 Records of employees

(1) A constable may enter any premises where a business involving the provision of security services is carried on and require to be produced for his inspection any records kept there of persons employed as security guards.

(2) A constable exercising the powers conferred by subsection (1) above shall identify himself to the person appearing to be in charge of the premises in question and, if not in uniform, shall produce to that person documentary evidence that he is a constable.

(3) Any person who without reasonable excuse fails to produce for inspection any records required to be produced under subsection (1) above is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(4) Any person providing security services for reward who makes or keeps records of persons employed by him as security guards which he knows to be false or misleading in a material respect is guilty of an offence and liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

40 Payments in respect of the provision of security services

(1) Any person who, in respect of the provision of security services, pays any sum of money to a person who is neither—

(a) the holder of a certificate in force under this Part of this Act, nor
(b) a person acting on behalf of the holder of such a certificate,

is guilty of an offence.

(2) A person guilty of an offence under subsection (1) above is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(3) It shall be a defence for a person charged with an offence under subsection (1) above to prove that, at the time when he paid the money in question, he had reasonable grounds for believing that the person to whom he paid it was, or was acting on behalf of, the holder of a certificate in force under this Part of this Act.

41 Liability of directors, etc

(1) Where an offence under this Part of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

42 Notifications

(1) Any notification given under this Part of this Act shall be in writing.

(2) Any notification required by this Part of this Act to be given by any person to the Secretary of State may be sent to him by post.

(3) Any notification required by this Part of this Act to be given by the Secretary of State to any person may—
(a) if that person is an individual, be sent to him by post addressed to him at his usual or last-known place of residence or business;
(b) if that person is a partnership, be sent to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership; or
(c) if that person is a body corporate, be sent to the secretary or clerk of that body at its registered or principal office.

(4) This section is without prejudice to any other lawful method of giving a notification.