

Draft Order laid before Parliament under paragraphs 1(3) and 7(3) of Schedule 2 to the Private Security Industry Act 2001, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

SECURITY INDUSTRY, ENGLAND AND WALES

**The Private Security Industry Act 2001
(Amendments to Schedule 2) Order 2006**

Made - - - - 2006
Coming into force - - 2006

The Secretary of State makes the following Order in exercise of the powers conferred by paragraphs 1(2) and 7(2) of Schedule 2 to the Private Security Industry Act 2001(1).

In accordance with section 24(4)(2) of that Act, he has consulted the Security Industry Authority.

In accordance with paragraphs 1(3) and 7(3) of Schedule 2 to that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Private Security Industry Act 2001 (Amendments to Schedule 2) Order 2006 and shall come into force on the day after the day on which it is made.

(2) In this Order “the 2001 Act” means the Private Security Industry Act 2001.

Amendments to Part 1 of Schedule 2

2. In paragraph 2 of Schedule 2 to the 2001 Act (manned guarding), after sub-paragraph (6) insert—

“(7) This paragraph does not apply to—

- (a) activities that are carried out by virtue of an arrangement made by the Secretary of State under section 80 of the Criminal Justice Act 1991(3) (arrangements for the provision of prisoner escorts) or section 12(1) of, and Schedule 1 to, the Criminal

(1) 2001 c. 12.

(2) Section 24(4) of the 2001 Act has been amended by paragraph 11(e) of Schedule 15 to the Serious Organised Crime and Police Act 2005 (c. 15) but the amendment is not yet in force.

(3) 1991 c. 53. Section 80 of the 1991 Act has been amended by section 93 of the Criminal Justice and Public Order Act 1994 (c. 33).

- Justice and Public Order Act 1994 (escort arrangements for offenders: England and Wales)(4);
- (b) activities that are carried out for the purposes of the performance of a contract entered into under, or for the purposes of, section 84(5) (contracting out prisons etc.) of the Criminal Justice Act 1991 or section 88A(6) (contracted out functions at directly managed prisons) of that Act;
- (c) activities that are carried out for the purposes of the performance of a contract entered into under, or for the purposes of, section 7 (contracting out of secure training centres) of the Criminal Justice and Public Order Act 1994 or section 11 (contracted out functions at directly managed secure training centres) of that Act;
- (d) activities carried out by a detainee custody officer (within the meaning of Part 8 of the Immigration and Asylum Act 1999(7) (removal centres and detained persons))—
- (i) in the performance of escort functions or custodial functions or both (in each case within the meaning of that Part of that Act) which he is authorised to perform under section 154 of that Act (detainee custody officers);
- (ii) in the performance of a function for the purposes of a contract entered into by the Secretary of State under section 150(1)(8) of that Act (contracted out functions at directly managed removal centres);
- (e) activities carried out by a prisoner custody officer (within the meaning of Part 8 of the Immigration and Asylum Act 1999 (removal centres and detained persons))—
- (i) in the performance of a function conferred on him by the Secretary of State under section 154(5)(9) of that Act (functions of detainee custody officers);
or
- (ii) in the performance of a function for the purposes of a contract entered into by the Secretary of State under section 150(1) of that Act (contracted out functions at directly managed removal centres);
- (f) activities of a person employed by a police authority who is designated by a chief officer of a police force under section 38 of the Police Reform Act 2002(10) (police powers for police authority employees) which are carried out in the course of that employment;
- (g) activities of a person who is designated by a chief officer of police under section 39(2) of the Police Reform Act 2002(11) (police powers for contracted-out staff) which are carried out for the purposes of the performance of a contract entered into under section 39(1) of that Act by that person's employer;
- (h) activities of a person who is appointed under section 24 (constables), 25 (special constables) or 26 (cadets) of the Railways and Transport Safety Act 2003(12) which are carried out in the course of his employment by the British Transport Police Authority;

(4) 1994 c. 33. Section 12 of the 1994 Act has been amended by paragraph 111 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37) and Schedule 1 to the 1994 Act has been amended by paragraph 162 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

(5) Section 84 of the 1991 Act was substituted by section 96 of the 1994 Act.

(6) Section 88A of the 1991 Act was inserted by section 99 of the 1994 Act.

(7) 1999 c. 33.

(8) Section 150(1) of the 1999 Act has been amended by section 66 of the Nationality, Immigration and Asylum Act 2002 (c. 41).

(9) Section 154(5) of the 1999 Act was substituted by section 65(1) of the Nationality, Immigration and Asylum Act 2002.

(10) Section 38 of the 2002 Act has been amended by section 120 of, paragraphs 179 and 181 of Schedule 4 to and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005.

(11) 2002 c. 30.

(12) 2003 c. 20.

- (i) activities of a person who is employed by the British Transport Police Authority under section 27 of the Railways and Transport Safety Act 2003 (civilian employees) and who is designated by the chief constable of the British Transport Police Force under section 38 of the Police Reform Act 2002 (police powers for police authority employees)(13) where those activities are carried out in the course of that employment;
- (j) activities of a person who is employed by the Civil Nuclear Police Authority under section 55 of the Energy Act 2004(14) (members of the constabulary) which are carried out in the course of that employment;
- (k) activities of a person who is employed as a constable by a harbour authority, within the meaning of section 57 of the Harbours Act 1964(15) (interpretation), which are carried out in the course of that employment;
- (l) activities of a person who is not a constable or an officer of Her Majesty's Revenue and Customs but is authorised for the purposes of section 40 of the Immigration, Asylum and Nationality Act 2006(16) (searches: contracting out) which are carried out for the purposes of arrangements made under section 40(6) (c) of that Act.”.

3.—(1) Paragraph 3 of Schedule 2 to the 2001 Act (immobilisation of vehicles)(17) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) This paragraph applies (subject to the following provisions of this paragraph) to any of the following activities—

- (a) the immobilisation of a motor vehicle by the attachment to the vehicle, or to a part of it, of an immobilising device;
- (b) the removal of an immobilising device from a motor vehicle; and
- (c) the demanding or collection of a charge as a condition of the removal of an immobilising device from a motor vehicle.”.

(3) In sub-paragraph (2)—

- (a) after “only to” insert “(a)”; and
- (b) at the end insert—

“(b) activities carried out in connection with activities mentioned in paragraph (a)”.

(4) For sub-paragraphs (2A) and (3) substitute—

“(2A) The activities in sub-paragraph (1)(a) only fall within this paragraph where—

- (a) they are carried out in circumstances in which it is proposed to impose a charge for the release of the vehicle; and
- (b) they are carried out in relation to a vehicle while it is elsewhere than on a road within the meaning of the Road Traffic Act 1988 (c. 52).

(2B) The activities in sub-paragraph (1)(b) only fall within this paragraph where—

(13) Section 38 of the Police Reform Act 2002 is applied to employees of the British Transport Police Authority by section 28 of the Railways and Transport Safety Act 2003 (exercise of powers by civilians).

(14) 2004 c. 20.

(15) 1964 c. 40; amendments have been made to section 57 which are not relevant to this Order.

(16) 2006 c. 13.

(17) Paragraph 3 of Schedule 2 to the 2001 Act was amended by the Private Security Industry Act 2001 (Amendments to Schedule 2) Order 2005 (S.I. 2005/224) and paragraph 14(a) of Schedule 15 to the Serious Organised Crime and Police Act 2005.

- (a) they are carried out in circumstances where it is either proposed to impose a charge for the release of the vehicle or where such a charge has been imposed; and
 - (b) they are carried out in relation to a vehicle which was immobilised while it was elsewhere than on a road within the meaning of the Road Traffic Act 1988.
- (3) The activities in sub-paragraph (1)(c) only fall within this paragraph where they are carried out in relation to a vehicle which was immobilised while it was elsewhere than on a road within the meaning of the Road Traffic Act 1988.”
- (5) After sub-paragraph (3) insert—
- “(3A) This paragraph does not apply to—
- (a) activities carried out pursuant to a contract entered into by the Lord Chancellor under section 2(4) of the Courts Act 2003(18) (court officers, staff and services);
 - (b) activities of a person who is appointed under section 24 (constables), 25 (special constables) or 26 (cadets) of the Railways and Transport Safety Act 2003 which are carried out in the course of his employment by the British Transport Police Authority;
 - (c) activities of a person who is employed by the British Transport Police Authority under section 27 of the Railways and Transport Safety Act 2003 (civilian employees) and who is designated by the chief constable of the British Transport Police Force under section 38 of the Police Reform Act 2002 (police powers for police authority employees) where those activities are carried out in the course of that employment;
 - (d) activities of a person who is employed as a constable by a harbour authority, within the meaning of section 57 of the Harbours Act 1964 (interpretation), which are carried out in the course of that employment.”
- 4.—(1) Paragraph 3A of Schedule 2 to the 2001 Act (restriction and removal of vehicles)(19) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) omit “and” at the end of paragraph (a); and
 - (b) at the end insert—
 - “(c) the release of a vehicle which has been so moved or restricted, where release is effected by returning the vehicle to the control of the person who was otherwise entitled to remove it, by removing any restriction on the movement of the vehicle or by any other means; and
 - (d) the demanding or collection of a charge as a condition of any such release of a vehicle.”
- (3) In sub-paragraph (2)—
- (a) after “only to” insert “(a)”; and
 - (b) at the end insert—
 - “(b) activities carried out in connection with activities carried mentioned in paragraph (a)”
- (4) For sub-paragraphs (2A) and (3) substitute—

(18) 2003 c. 39.

(19) Paragraph 3A of Schedule 2 to the 2001 Act was inserted by the Private Security Industry Act 2001 (Amendments to Schedule 2) Order 2005 (S.I. 2005/224).

- “(2A) The activities in sub-paragraph (1)(a) and (b) only fall within this paragraph where—
- (a) they are carried out in circumstances in which it is proposed to impose a charge for the release of the vehicle; and
 - (b) they are carried out in relation to a vehicle while it is elsewhere than on a road within the meaning of the Road Traffic Act 1988 (c. 52).
- (2B) The activities in sub-paragraph (1)(c) only fall within this paragraph where—
- (a) they are carried out in circumstances where it is either proposed to impose a charge for the release of the vehicle or where such a charge has been imposed; and
 - (b) they are carried out in relation to a vehicle which was moved or restricted while it was elsewhere than on a road within the meaning of the Road Traffic Act 1988.
- (3) The activities in sub-paragraph (1)(d) only fall within this paragraph where they are carried out in relation to a vehicle which was moved or restricted while it was elsewhere than on a road within the meaning of the Road Traffic Act 1988.”
- (5) After sub-paragraph (5) insert—
- “(6) This paragraph does not apply to—
- (a) activities carried out pursuant to a contract entered into by the Lord Chancellor under section 2(4) of the Courts Act 2003 (court officers, staff and services);
 - (b) activities carried out by a person for the purposes of, or in connection with, a contract entered into by a local authority with a view to removing a vehicle pursuant to section 3 of the Refuse Disposal (Amenity) Act 1978⁽²⁰⁾ (removal of abandoned vehicles) or pursuant to regulations made under section 99 of the Road Traffic Regulation Act 1984⁽²¹⁾ (removal of vehicles illegally, obstructively or dangerously parked, or abandoned or broken down);
 - (c) activities carried out by a person for the purposes of, or in connection with, a contract entered into by a police authority or another authority which maintains a body of constables with a view to removing a vehicle pursuant to regulations made under section 99 of the Road Traffic Regulation Act 1984 (removal of vehicles illegally, obstructively or dangerously parked, or abandoned or broken down);
 - (d) activities of a person who is appointed under section 24 (constables), 25 (special constables) or 26 (cadets) of the Railways and Transport Safety Act 2003 which are carried out in the course of his employment by the British Transport Police Authority;
 - (e) activities of a person who is employed by the British Transport Police Authority under section 27 of the Railways and Transport Safety Act 2003 (civilian employees), and who is designated by the chief constable of the British Transport Police Force under section 38 of the Police Reform Act 2002 (police powers for police authority employees) where those activities are carried out in the course of that employment;

(20) 1978 c. 3. Section 3 of the 1978 Act has been amended and the relevant amending instruments are: sections 1, 107 and 194 of, and Schedules 3, 5 and 34 to, the Local Government Planning and Land Act 1980 (c. 65); section 11 of the Clean Neighbourhoods and Environment Act 2005 (c. 16); section 343 of, and Schedule 24 to, the Highways Act 1980 (c. 66); sections 9 and 102 of, and Schedules 6 and 17 to, the Local Government Act 1985 (c. 51); and the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884). Section 3 of the 1978 has also been modified for certain relevant purposes by: the Airports (Designation) (Removal and Disposal of Vehicles) Order 1990 (S.I. 1990/54); section 70 of, and paragraph 9 of Schedule 9 to, the Environment Act 1995 (c. 25); and section 6 of the London Local Authorities Act 2004 (c. i).

(21) 1984 c. 27. Section 99 has been amended by paragraph 32 of Schedule 4 to, and Schedule 8 to, the Road Traffic Act 1991 (c. 40) and section 15 of, and Schedule 5 to, the Clean Neighbourhoods and Environment Act 2005 (c. 16). The amendments made by the 2005 Act in relation to Wales have not yet been commenced.

- (f) activities of a person who is employed as a constable by a harbour authority, within the meaning of section 57 of the Harbours Act 1964 (interpretation) which are carried out in the course of that employment.
- (7) For the purposes of sub-paragraph (6)(b) “local authority” means—
 - (a) in relation to England, a district council, a London borough council or the Common Council of the City of London;
 - (b) in relation to Wales, a county council or a county borough council.”.

Amendments to Part 2 of Schedule 2

5.—(1) Paragraph 8 of Schedule 2 to the 2001 Act (door supervisors etc. for public houses, clubs and comparable venues) is amended as follows.

(2) In sub-paragraph (1) after “applies” insert “(subject to the following provisions of this paragraph)”.

(3) After sub-paragraph (1) insert—

“(1A) This paragraph applies to activities carried out in relation to premises referred to in sub-paragraph (2)(a) only if they are carried out at or in relation to times when alcohol is being supplied (within the meaning of section 14 of the Licensing Act 2003⁽²²⁾ (meaning of “supply of alcohol”)) for consumption on the premises.

(1B) This paragraph applies to activities carried out in relation to premises referred to in sub-paragraph (2)(b) only if they are carried out at or in relation to times when regulated entertainment is being provided on the premises.

(1C) This paragraph does not apply to activities which only involve the use of closed circuit television equipment.”.

(4) In sub-paragraph (6) after “Sub-paragraphs” insert “(1A), (1B),”.

Home Office
2006

Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order amends paragraph 2 of Schedule 2 to the Private Security Industry Act 2001 (“the 2001 Act”) to remove from the definition of the manned guarding activities of a security operative those activities carried out by certain persons in circumstances relating to prisons and to immigration and police matters.

Articles 3 and 4 of this Order amend paragraphs 3 and 3A of Schedule 2 to the 2001 Act to include within the scope of the activities of a security operative which relate to the immobilisation, restriction and removal of vehicles the following related activities: the removal of any such immobilisation or restriction; the return of a vehicle so removed to the control of the person who would otherwise be entitled to remove it; and the demand or collection of a charge for those activities. Articles 3 and 4 of this Order also remove from the scope of paragraphs 3 and 3A of Schedule 2 to the 2001 Act the activities of certain bailiffs and a number of activities relating to police matters and article 4 amends paragraph 3A of Schedule 2 to the 2001 Act to remove from the scope of that paragraph the vehicle removal activities of persons operating under contracts entered into with local authorities and the police for that purpose.

Article 5 of this Order amends paragraph 8 of Schedule 2 to the 2001 Act to remove from the scope of that paragraph activities under paragraph 2 of Schedule 2 to the 2001 Act which involve only the use of CCTV equipment. Article 5 also amends paragraph 8 of Schedule 2 to ensure that manned guarding activities carried out in relation to a licensed premises specified in paragraph 8(2) (a) or (b) of Schedule 2 are only subject to additional controls when they are carried out at a time when alcohol is being served for consumption on those premises or when entertainment is being provided on those premises respectively.