

Status: Point in time view as at 01/08/2007.

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SCHEDULES

SCHEDULE 6

Section 48

PRIVATE SECURITY INDUSTRY: INTERIM ARRANGEMENTS

Interpretation

- 1 In this Schedule “security services” means the services of one or more individuals as security guards (whether or not provided together with other services relating to the protection of property or persons).
- 2 In this Schedule “licence” means a licence under this Schedule.
- 3 In this Schedule “proscribed organisation” has the meaning given by section 3 of the Terrorism Act 2000 (c. 11).

Unlicensed services: offences

- 4 A person commits an offence if he provides or offers to provide security services for reward unless he—
 - (a) holds a licence, or
 - (b) acts on behalf of someone who holds a licence.
- 5 (1) A person commits an offence if he publishes or causes to be published an advertisement for the provision for reward of security services by a person who does not hold a licence.
(2) It is a defence for a person charged with an offence under this paragraph to prove—
 - (a) that his business is (or includes) publishing advertisements or arranging for their publication,
 - (b) that he received the advertisement for publication in the ordinary course of business, and
 - (c) that he reasonably believed that the person mentioned in the advertisement as the provider of security services held a licence.
- 6 (1) A person commits an offence if he pays money, in respect of the provision of security services, to a person who—
 - (a) does not hold a licence, and
 - (b) is not acting on behalf of someone who holds a licence.

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 6. (See end of Document for details)

- (2) It is a defence for a person charged with an offence under this paragraph to prove that he reasonably believed that the person to whom he paid the money—
- (a) held a licence, or
 - (b) was acting on behalf of someone who held a licence.
- 7 (1) A person guilty of an offence under paragraph 4 or 5 shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (2) A person guilty of an offence under paragraph 6 is liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.

Application for licence

- 8 (1) An application for a licence shall be made to the Secretary of State—
- (a) in such manner and form as he may specify, and
 - (b) accompanied by such information as he may specify.
- (2) The Secretary of State may specify information only if it concerns—
- (a) the applicant,
 - (b) a business involving the provision of security services for reward which is, was or is proposed to be carried on by the applicant,
 - (c) a person whom the applicant employs or proposes to employ as a security guard,
 - (d) a partner or proposed partner of the applicant (where the applicant is an individual),
 - (e) a member or proposed member of the applicant (where the applicant is a partnership),
 - (f) an officer or proposed officer of the applicant (where the applicant is a body corporate).
- (3) A person commits an offence if in connection with an application for a licence he—
- (a) makes a statement which he knows to be false or misleading in a material particular, or
 - (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A person guilty of an offence under sub-paragraph (3) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (5) For the purposes of this paragraph—

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 6. (See end of Document for details)

- (a) a reference to employment or proposed employment by an applicant for a licence shall, where the applicant is a partnership or a member of a partnership, be construed as a reference to employment or proposed employment by the partnership or by any of its partners,
- (b) “officer” includes a director, manager or secretary,
- (c) 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, and
- (d) the reference to directions or instructions in paragraph (c) does not include a reference to advice given in a professional capacity.

Issue of licence

- 9 (1) The Secretary of State shall grant an application for a licence unless satisfied that any of Conditions 1 to 4 applies.
- (2) Condition 1 for the refusal of a licence is that a proscribed organisation, or an organisation which appears to the Secretary of State to be closely associated with a proscribed organisation, would be likely to benefit from the licence (whether or not a condition were imposed under paragraph 10).
- (3) Condition 2 for the refusal of a licence is that there are reasonable grounds to suspect that any of the following is engaged in criminal activity—
- (a) a business involving the provision for reward of security services which is, was or is proposed to be carried on by the applicant,
 - (b) a person whom the applicant employs or proposes to employ as a security guard,
 - (c) a partner or proposed partner of the applicant (where the applicant is an individual),
 - (d) a member or proposed member of the applicant (where the applicant is a partnership), and
 - (e) an officer or proposed officer of the applicant (where the applicant is a body corporate).
- (4) Condition 3 for the refusal of a licence is that the applicant has persistently failed to comply with the requirements of this Schedule.
- (5) Condition 4 for the refusal of a licence is that the applicant has failed to comply with a condition imposed under paragraph 10.
- (6) In Condition 1 a reference to a benefit is a reference to any benefit—
- (a) whether direct or indirect, and
 - (b) whether financial or not.
- (7) Paragraph 8(5) shall have effect for the purposes of Condition 2.
- (8) In Condition 3 the reference to this Schedule includes a reference to—
- (a) Part V of the Northern Ireland (Emergency Provisions) Act 1991 (c. 24) (private security services),
 - (b) Part V of the Northern Ireland (Emergency Provisions) Act 1996 (c. 22) (private security services), and

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 6. (See end of Document for details)

- (c) Schedule 13 to the Terrorism Act 2000 (c. 11) (Northern Ireland: private security services).

Conditions of licence

- 10 (1) The Secretary of State may on granting a licence impose a condition if satisfied that it is necessary in order to prevent any of the persons listed in sub-paragraph (2) from benefiting from the licence (within the meaning of paragraph 9(6)).
- (2) Those persons are—
- (a) a proscribed organisation,
 - (b) an organisation which appears to the Secretary of State to be closely associated with a proscribed organisation, from benefiting from the licence, and
 - (c) a person who engages in criminal activity.

Refusal of licence

- 11 If the Secretary of State refuses an application for a licence he shall notify the applicant.

Duration of licence

- 12 (1) A licence—
- (a) shall come into force at the beginning of the day on which it is issued, and
 - (b) subject to sub-paragraph (2), shall expire at the end of the period of 12 months beginning with that day.
- (2) Where a licence is issued to a person who already holds a licence, the new licence shall expire at the end of the period of 12 months beginning with the day after the day on which the current licence expires.
- (3) The Secretary of State may by order substitute a period exceeding 12 months for the period for the time being specified in sub-paragraphs (1)(b) and (2).
- (4) An order under sub-paragraph (3)—
- (a) may include incidental or transitional provision,
 - (b) shall be made by statutory instrument, and
 - (c) shall be laid before Parliament.

Revocation of licence

- 13 (1) The Secretary of State may revoke a licence if satisfied that—
- (a) a proscribed organisation, or an organisation which appears to the Secretary of State to be closely associated with a proscribed organisation, would be likely to benefit from the licence remaining in force,

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 6. (See end of Document for details)

- (b) there are reasonable grounds to suspect that any of the persons listed in paragraph 9(3) (taking a reference to the applicant as a reference to the holder of the licence) is engaged in criminal activity,
 - (c) the holder of the licence has persistently failed to comply with the requirements of this Schedule, or
 - (d) the holder of the licence has failed to comply with a condition imposed under paragraph 10.
- (2) The Secretary of State shall not revoke a licence unless the holder—
- (a) has been notified of the Secretary of State's intention to revoke the licence, and
 - (b) has been given a reasonable opportunity to make representations to the Secretary of State.
- (3) If the Secretary of State revokes a licence he shall notify the holder immediately.
- (4) Paragraph 9(6) and (8) shall apply for the purposes of this paragraph.

Appeal

- 14 The applicant for a licence may appeal to the High Court if—
- (a) the application is refused,
 - (b) a condition is imposed on the grant of a licence, or
 - (c) the licence is revoked.
- 15 (1) Where an appeal is brought under paragraph 14, the Secretary of State may issue a certificate that the decision to which the appeal relates—
- (a) was taken for a purpose specified in sub-paragraph (2), and
 - (b) was justified by that purpose.
- (2) Those purposes are—
- (a) preventing benefit from accruing to an organisation which was proscribed,
 - (b) preventing benefit from accruing to an organisation which appeared to the Secretary of State to be closely associated with an organisation which was proscribed, and
 - (c) preventing benefit from accruing to a person who was engaged in criminal activity.
- (3) If he intends to rely on a certificate under this paragraph the Secretary of State shall notify the appellant.
- (4) Where the appellant is notified of the Secretary of State's intention to rely on a certificate under this paragraph—
- (a) he may appeal against the certificate to the Tribunal established under section 91 of the Northern Ireland Act 1998 (c. 47), and
 - (b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure, and further appeal) shall apply.

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 6. (See end of Document for details)

- (5) Rules made under section 91 or 92 of that Act which are in force immediately before this paragraph comes into force shall have effect in relation to a certificate under this paragraph—
- (a) with any necessary modifications, and
 - (b) subject to any later rules made by virtue of sub-paragraph (4)(b).

Change of personnel

- 16 Paragraphs 17 and 18 apply to a person who—
- (a) holds a licence, or
 - (b) has made an application for a licence which has not yet been determined.
- 17
- (1) If a person to whom this paragraph applies proposes to employ a security guard about whom information was not given under paragraph 8, he shall give the Secretary of State such information about the security guard as the Secretary of State may specify.
 - (2) The information shall be given not less than 14 days before the employment is to begin.
 - (3) For the purposes of this paragraph the provisions of paragraph 8(5) shall have effect in relation to a holder of or an applicant for a licence as they have effect for the purposes of paragraph 8 in relation to an applicant.
- 18
- (1) A person to whom this paragraph applies shall give the Secretary of State such information about a relevant change of personnel as the Secretary of State may specify.
 - (2) The information shall be given—
 - (a) not less than 14 days before the change, or
 - (b) if that is not reasonably practicable, as soon as is reasonably practicable.
 - (3) A relevant change of personnel is—
 - (a) where the application for the licence was made by a partnership or a member of a partnership, a change in the members of the partnership, or
 - (b) where the application for the licence was made by a body corporate, a change in the officers of the body (within the meaning of paragraph 8).
 - (4) But a change of personnel is not relevant if it was mentioned in the information given under paragraph 8.
- 19
- (1) A person commits an offence if he fails to comply with paragraph 17 or 18.
 - (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding six months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 6. (See end of Document for details)

Records

- 20 (1) A constable may—
- (a) enter premises where a business involving the provision of security services is being carried on, and
 - (b) require records kept there of a person employed as a security guard to be produced for the constable's inspection.
- (2) A constable exercising the power under this paragraph—
- (a) shall identify himself to a person appearing to be in charge of the premises,
 - (b) if the constable is not in uniform, shall produce to that person documentary evidence that he is a constable, and
 - (c) may use reasonable force.
- (3) A person commits an offence if he fails to comply with a requirement imposed under sub-paragraph (1)(b).
- (4) But it is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.
- (5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- 21 (1) A person who provides for reward security services commits an offence if he makes or keeps a record of a person employed by him as a security guard which he knows to be false or misleading in a material particular.
- (2) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

Offence: body corporate

- 22 (1) This paragraph applies where an offence under this Schedule committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
 - (b) to be attributable to neglect on the part of an officer of the body corporate.
- (2) The officer, as well as the body corporate, shall be guilty of the offence.
- (3) In this paragraph “officer” includes—
- (a) a director, manager or secretary,
 - (b) a person purporting to act as a director, manager or secretary, and

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- (c) a member of a body corporate the affairs of which are managed by its members.

Notice

- 23
- (1) A notice under this Schedule must be in writing.
 - (2) Information required to be given to the Secretary of State under this Schedule—
 - (a) must be in writing, and
 - (b) may be sent to him by post.
 - (3) The Secretary of State may serve a notice under this Schedule on an individual—
 - (a) by delivering it to him,
 - (b) by sending it by post addressed to him at his usual or last-known place of residence or business, or
 - (c) by leaving it for him there.
 - (4) The Secretary of State may serve a notice under this Schedule on a partnership—
 - (a) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
 - (b) by addressing it to a partner or to a person mentioned in paragraph (a) and leaving it at that office.
 - (5) The Secretary of State may serve a notice under this Schedule on a body corporate—
 - (a) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
 - (b) by addressing it to the secretary or clerk of the body and leaving it at that office.
 - (6) The Secretary of State may serve a notice under this Schedule on any person—
 - (a) by delivering it to his solicitor,
 - (b) by sending it by post to his solicitor at his solicitor's office, or
 - (c) by leaving it for his solicitor there.
 - (7) Sub-paragraphs (3) to (6) do not apply in relation to a notice under paragraph 15.

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