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SCHEDULES

SCHEDULE 1

Section 8

TRIALS ON INDICTMENT WITHOUT A JURY: CONSEQUENTIAL AMENDMENTS

Modifications etc. (not altering text)

- C1** Ss. 1-8 (and Schedule 1) shall expire on 1.8.2009 by virtue of {s. 9(1)} of this Act; [S.I. 2007/2045, art. 2\(3\)\(a\)](#)

Criminal Procedure and Investigations Act 1996 (c. 25)

- 1 (1) The Criminal Procedure and Investigations Act 1996 is, in its application to Northern Ireland (as set out in Schedule 4 to that Act), amended as follows.
- (2) In section 14A(1) (public interest: review for scheduled offences), for the words from “the offence” to the end substitute “ section 5 of the Justice and Security (Northern Ireland) Act 2007 (trials on indictment without a jury) applies in relation to the trial of the accused for the offence charged ”.
- (3) The heading of section 14A accordingly becomes “ Public interest: review for offences tried under section 5 of the Justice and Security (Northern Ireland) Act 2007 ”.
- (4) In section 39(3)(a) (start of trial on indictment without a jury), for “section 75 of the Terrorism Act 2000” substitute “ section 5 of the Justice and Security (Northern Ireland) Act 2007 ”.

Criminal Justice Act 2003 (c. 44)

- 2 The Criminal Justice Act 2003 is amended as follows.
- 3 In section 50 (application of Part 7 to Northern Ireland), for subsection (2) substitute—
- “(2) This Part does not apply in relation to a trial to which section 5 of the Justice and Security (Northern Ireland) Act 2007 (trials on indictment without a jury) applies.”
- 4 In Schedule 36, in paragraph 45(3), in the inserted section 48(6B)(b) of the Judicature (Northern Ireland) Act 1978 (c. 23) (committal for trial on indictment), for “section 75 of the Terrorism Act 2000” substitute “ section 5 of the Justice and Security (Northern Ireland) Act 2007 ”.

Domestic Violence, Crime and Victims Act 2004 (c. 28)

- 5 In section 21 of the Domestic Violence, Crime and Victims Act 2004 (application of sections 17 to 20 to Northern Ireland), for subsection (2) substitute—

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“(1A) The ballot shall be conducted using the numbers assigned to the persons on the panel, or the section of the panel, in accordance with Article 6(1) (and not by using their names).”

(3) In Article 12, in paragraph (2), for “names” substitute “ numbers ”.

(4) In Article 18 (selection of additional jurors), after paragraph (2) insert—

“(2A) A ballot under paragraph (2) shall be conducted using numbers assigned to the nominated persons (and not by using their names).”

SCHEDULE 3

Section 24

MUNITIONS AND TRANSMITTERS: SEARCH AND SEIZURE

Interpretation

- 1 (1) In this Schedule “officer” means—
- (a) a member of Her Majesty's forces on duty, and
 - (b) a constable.
- (2) In this Schedule “authorised officer” means—
- (a) a member of Her Majesty's forces who is on duty and is authorised by a commissioned officer of those forces, and
 - (b) a constable who is authorised by an officer of the Police Service of Northern Ireland of at least the rank of inspector.
- (3) In this Schedule—
- (a) “munitions” means—
 - (i) explosives, firearms and ammunition, and
 - (ii) anything used or capable of being used in the manufacture of an explosive, a firearm or ammunition,
 - (b) “explosive” means—
 - (i) an article or substance manufactured for the purpose of producing a practical effect by explosion,
 - (ii) materials for making an article or substance within sub-paragraph (i),
 - (iii) anything used or intended to be used for causing or assisting in causing an explosion, and
 - (iv) a part of anything within sub-paragraph (i) or (ii),
 - (c) “firearm” includes an air gun or air pistol,
 - (d) “scanning receiver” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted,
 - (e) “transmitter” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for emission, as opposed to reception,
 - (f) “wireless apparatus” means a scanning receiver or a transmitter, and

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- (g) “wireless telegraphy” has the same meaning as in section 116 of the Wireless Telegraphy Act 2006 (c. 36).

Entering premises

- 2 (1) An officer may enter and search any premises for the purpose of ascertaining—
- (a) whether there are any munitions unlawfully on the premises, or
 - (b) whether there is any wireless apparatus on the premises.
- (2) An officer may not enter a dwelling under this paragraph unless he is an authorised officer and he reasonably suspects that the dwelling—
- (a) unlawfully contains munitions, or
 - (b) contains wireless apparatus.
- (3) A constable exercising the power under sub-paragraph (1) may, if necessary, be accompanied by other persons.
- 3 (1) If the officer carrying out a search of premises under paragraph 2 reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated, he may—
- (a) require a person who is on the premises when the search begins, or who enters during the search, to remain on the premises;
 - (b) require a person mentioned in paragraph (a) to remain in a specified part of the premises;
 - (c) require a person mentioned in paragraph (a) to refrain from entering a specified part of the premises;
 - (d) require a person mentioned in paragraph (a) to go from one specified part of the premises to another;
 - (e) require a person who is not a resident of the premises to refrain from entering them.
- (2) A requirement imposed under this paragraph shall cease to have effect after the conclusion of the search in relation to which it was imposed.
- (3) Subject to sub-paragraphs (4) and (5), no requirement under this paragraph for the purposes of a search shall be imposed or have effect after the end of the period of four hours beginning with the time when the first (or only) requirement is imposed in relation to the search.
- (4) In the case of a search by a constable, an officer of the Police Service of Northern Ireland of at least the rank of superintendent may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
- (5) In the case of a search by a member of Her Majesty's forces, an officer of at least the rank of Major may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
- (6) The power to extend a period conferred by sub-paragraph (4) or (5) may be exercised only once in relation to a particular search.

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Stopping and searching persons

- 4 (1) An officer may—
- (a) stop a person in a public place, and
 - (b) search him for the purpose of ascertaining whether he has munitions unlawfully with him or wireless apparatus with him.
- (2) An officer may search a person—
- (a) who is not in a public place, and
 - (b) whom the officer reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.
- (3) A member of Her Majesty's forces may search a person entering or found in a dwelling entered under paragraph 2.

Seizure

- 5 (1) This paragraph applies where an officer is empowered by virtue of this Schedule or section 25 or 26 to search premises or a person.
- (2) The officer may—
- (a) seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully), and
 - (b) retain and, if necessary, destroy them.
- (3) The officer may—
- (a) seize any wireless apparatus found in the course of the search (unless it appears to him that the apparatus is being, has been and will be used only lawfully), and
 - (b) retain it.

Records

- 6 (1) Where an officer carries out a search of premises under this Schedule he shall, unless it is not reasonably practicable, make a written record of the search.
- (2) The record shall specify—
- (a) the address of the premises searched,
 - (b) the date and time of the search,
 - (c) any damage caused in the course of the search, and
 - (d) anything seized in the course of the search.
- (3) The record shall also include the name (if known) of any person appearing to the officer to be the occupier of the premises searched; but—
- (a) a person may not be detained in order to discover his name, and
 - (b) if the officer does not know the name of a person appearing to him to be the occupier of the premises searched, he shall include in the record a note describing him.
- (4) The record shall identify the officer—
- (a) in the case of a constable, by reference to his police number, and

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- (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.
- 7 (1) Where an officer makes a record of a search in accordance with paragraph 6, he shall supply a copy to any person appearing to him to be the occupier of the premises searched.
- (2) The copy shall be supplied immediately or as soon as is reasonably practicable.

Offences

- 8 (1) A person commits an offence if he—
- (a) knowingly fails to comply with a requirement imposed under paragraph 3, or
 - (b) wilfully obstructs, or seeks to frustrate, a search of premises under this Schedule.
- (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.
- 9 (1) A person commits an offence if he fails to stop when required to do so under paragraph 4.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

SCHEDULE 4

Section 38

COMPENSATION

Right to compensation

- 1 (1) This paragraph applies where under sections 21 to 32—
- (a) real or personal property is taken, occupied, destroyed or damaged, or
 - (b) any other act is done which interferes with private rights of property.
- (2) Where this paragraph applies in respect of an act taken in relation to any property or rights the Secretary of State shall pay compensation to any person who—
- (a) has an estate or interest in the property or is entitled to the rights, and
 - (b) suffers loss or damage as a result of the act.
- 2 No compensation shall be payable unless an application is made to the Secretary of State in such manner as he may specify.

Time limit

- 3 (1) Subject to sub-paragraphs (2) and (3), an application for compensation in respect of an act must be made within the period of 28 days beginning with the date of the act.

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- (2) The Secretary of State may, in response to a request made to him in writing, permit an application to be made—
 - (a) after the expiry of the period mentioned in sub-paragraph (1), and
 - (b) within such longer period, starting from the date of the act and not exceeding six months, as he may specify.
- (3) Where the Secretary of State refuses a request under sub-paragraph (2)—
 - (a) he shall serve a notice of refusal on the person who made the request,
 - (b) that person may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against the refusal, and
 - (c) the county court may exercise the power of the Secretary of State under sub-paragraph (2).

Determination

- 4 Where the Secretary of State determines an application for compensation he shall serve on the applicant a notice—
 - (a) stating that he has decided to award compensation and specifying the amount of the award, or
 - (b) stating that he has decided to refuse the application.
- 5 (1) An applicant may appeal to the county court against—
 - (a) the amount of compensation awarded, or
 - (b) the refusal of compensation.

(2) An appeal must be brought within the period of six weeks beginning with the date of service of the notice under paragraph 4.
- 6 (1) This paragraph applies where the Secretary of State considers that in the course of an application for compensation the applicant—
 - (a) knowingly made a false or misleading statement,
 - (b) made a statement which he did not believe to be true, or
 - (c) knowingly failed to disclose a material fact.

(2) The Secretary of State may—
 - (a) refuse to award compensation,
 - (b) reduce the amount of compensation which he would otherwise have awarded, or
 - (c) withhold all or part of compensation which he has awarded.
- 7 Where the Secretary of State makes an award of compensation he may make a payment to the applicant in respect of all or part of the costs of the application.

Assignment of right

- 8 (1) This paragraph applies where—
 - (a) a person has made an application for compensation, and
 - (b) his right to compensation has passed to another person by virtue of an assignment or the operation of law.

(2) The Secretary of State shall treat the person mentioned in sub-paragraph (1)(b) as the applicant.

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Offenders

- 9 (1) This paragraph applies where a person has a right to compensation in respect of an act and—
- (a) the act was done in connection with, or revealed evidence of the commission of an offence, and
 - (b) proceedings for the offence are brought against the person.
- (2) The person's right to compensation shall not be enforceable while the proceedings have not been concluded.
- (3) If the person stands convicted of the offence he shall have no right to compensation.

Notices

- 10 A notice served under paragraph 3(3)(a) or 4 shall contain particulars of the right of appeal under paragraph 3(3)(b) or 5.
- 11 (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

Offences

- 12 (1) A person commits an offence if he obtains compensation or increased compensation for himself or another person by deception.
- (2) In sub-paragraph (1) “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.
- (3) A person commits an offence if for the purposes of obtaining compensation he—
- (a) knowingly makes a false or misleading statement,
 - (b) makes a statement which he does not believe to be true, or

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- (c) knowingly fails to disclose a material fact.
- (4) A person guilty of an offence under this paragraph 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 one year, to a fine not exceeding the statutory maximum or to both.

SCHEDULE 5

Section 44

NORTHERN IRELAND DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

- 1 In Schedule 2 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), the inserted Schedule 4A to the Northern Ireland Act 1998 (c. 47) (department with policing and justice functions) is amended as follows.
- 2 After Part 3 insert—

“PART 3A

DEPARTMENT IN THE CHARGE OF MINISTER AND DEPUTY MINISTER

Introduction

- 11A(1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions; and
 - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(5A)—
 - (i) for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) elected by the Assembly; and
 - (ii) for that Minister to be supported by a deputy Minister (the “deputy Minister”) elected by the Assembly.
- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

- 11B(1) Section 16A shall have effect subject to the following modifications.
- (2) Subsection (2) shall have effect as if, at the end there were inserted “; and the deputy Minister (within the meaning of Part 3A of Schedule 4A) shall cease to hold office.”
 - (3) Subsection (3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted—
 - “(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3A of Schedule 4A) and the deputy Ministerial office (within that meaning) shall be

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filled by applying paragraph 11E(2)(b) and (3) to (8) of that Schedule; and

- (b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).”

Section 18 not to apply to relevant Minister

11C (1) Subject to sub-paragraphs (2) to (5), section 18 (Northern Ireland Ministers) shall not apply in relation to—

- (a) the relevant Minister; or
 (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),

and paragraphs 11E to 11G shall apply instead.

- (2) The references to Ministerial offices in subsection (1)(c) and (d) of section 18 shall be taken to include the relevant Ministerial office.
- (3) In the application of section 18(5) to a political party which is entitled to two or more Ministerial offices, the reference to Ministerial offices (in the definition of M)—
- (a) at any time when the number of Ministerial offices held by members of the party (apart from the relevant Ministerial office) is nil, shall be taken not to include the relevant Ministerial office; but
- (b) at any time when the number of Ministerial offices held by members of the party (apart from the relevant Ministerial office) is one or more, shall be taken to include the relevant Ministerial office.
- (4) In the application of section 18(5) to any other political party, that reference to Ministerial offices shall be taken to include the relevant Ministerial office.
- (5) For the purposes of this paragraph, a political party is entitled to two or more Ministerial offices if the nominating officer of the party would be entitled to nominate persons to hold two or more Ministerial offices under section 18, assuming that—
- (a) on each occasion on which a nominating officer of a political party is entitled to exercise the power conferred by section 18(2), he does so within the period mentioned in section 18(3)(a);
- (b) the nominated person, in each case, takes up the selected Ministerial office within that period; and
- (c) the reference in section 18(5) to Ministerial offices (in the definition of M) is taken to include the relevant Ministerial office.

Section 19 not to apply to deputy Minister

11D (1) The deputy Minister is to be treated for the purposes of this Act as if he were a junior Minister, but the provisions of section 19 (junior Ministers) shall not apply in relation to—

- (a) him; or
 (b) the office held by him (the “deputy Ministerial office”),

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(so that, in particular, the deputy Ministerial office shall not count for the purposes of any formulae or other rules mentioned in section 19(2)); and the following provisions of this Part of this Schedule shall apply instead.

- (2) The functions exercisable by virtue of the deputy Ministerial office shall be those determined in relation to that office by the relevant Minister and the deputy Minister acting jointly.
- (3) The relevant Minister and the deputy Minister shall consult the First Minister and the deputy First Minister before making any determination under sub-paragraph (2).

Provisions relating to relevant Minister and deputy Minister

- 11E (1) When devolved policing and justice functions are first transferred to, or conferred on, the department mentioned in paragraph 11A, the relevant Ministerial office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.
- (2) The relevant Ministerial office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8)—
 - (a) before section 18(2) to (6) is applied in relation to the other Ministerial offices; and
 - (b) before the procedures specified in any determination under section 19 are applied in relation to the junior Ministerial offices.
 - (3) Any member of the Assembly may stand as a candidate for election as—
 - (a) the relevant Minister; or
 - (b) the deputy Minister.
 - (4) But a member of the Assembly may not stand for election to either of those offices unless—
 - (a) he belongs to the largest or the second largest political designation (see paragraph 11H);
 - (b) he is nominated by another member of the Assembly; and
 - (c) if he is a member of a political party, the nominating officer of the party consents to his nomination within a period specified in standing orders.
 - (5) A candidate shall not be elected to either of those offices by the Assembly without the support of—
 - (a) a majority of the members voting in the election;
 - (b) a majority of the designated Nationalists voting; and
 - (c) a majority of the designated Unionists voting.
 - (6) A candidate shall not be elected to hold office as deputy Minister unless—
 - (a) the relevant Ministerial office is filled; and
 - (b) the candidate and the relevant Minister belong to different political designations.
 - (7) A person elected to the office of relevant Minister or deputy Minister shall not take up office until he has affirmed the terms of the pledge of office.

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- (8) If a person elected to either office does not take up the office within a period specified in standing orders, his election shall be deemed to be ineffective.
- (9) The relevant Minister or the deputy Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
 - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution;
 - (c) where consent to his nomination was required under sub-paragraph (4)(c), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) If the relevant Minister or the deputy Minister ceases to hold office at any time, otherwise than by virtue of section 16A(2), the office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.
- (11) But if—
- (a) the relevant Ministerial office is filled by virtue of sub-paragraph (10); and
 - (b) the person appointed as the relevant Minister belongs to the same political designation as the deputy Minister,
- the deputy Minister shall cease to hold office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.
- (12) Standing orders may make provision with respect to the holding of elections under this paragraph.

Eligibility to become relevant Minister or deputy Minister

- 11F (1) The holding of office as First Minister or deputy First Minister shall not prevent a person being elected to hold—
- (a) the relevant Ministerial office; or
 - (b) the deputy Ministerial office.
- (2) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
 - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under paragraph 11E(4)(b).
- (3) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
 - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under paragraph 11E(4)(b).

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- (4) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.

Change in number of Ministerial offices held by members of a political party

11G (1) If, as a result of the relevant Minister (“the former Minister”) ceasing to hold office and the relevant Ministerial office being filled by virtue of paragraph 11E(10)—

- (a) the total number of Ministerial offices held by members of a political party increases; or
- (b) the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

(2) But sub-paragraph (1) shall not apply if—

- (a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under paragraph 11E(9)(c); and
- (b) before the relevant Ministerial office was filled, either of the conditions in sub-paragraph (3) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer.

(3) The conditions are that—

- (a) another member of the Assembly sought to nominate the member under paragraph 11E(4)(b) for the relevant Ministerial office but consent to his nomination was not given in accordance with paragraph 11E(4)(c); or
- (b) the member was elected to the relevant Ministerial office, but the member did not take up the office within the period specified in standing orders by virtue of paragraph 11E(8).

Interpretation

11H (1) In this Part of this Schedule “nominating officer” has the same meaning as in section 18.

(2) For the purposes of this Part of this Schedule, a member of the Assembly is to be taken—

- (a) to belong to the political designation “Nationalist” if he is a designated Nationalist;
- (b) to belong to the political designation “Unionist” if he is a designated Unionist;
- (c) otherwise, to belong to the political designation “Other”;

and the size of each of the political designations “Nationalist”, “Unionist” and “Other” is to be determined in accordance with section 16C(4) and (5).”

3 In paragraph 12(1), for “or (5)” substitute “, (5) or (5A) or an Order in Council under section 21A(7C)”.

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SCHEDULE 6

Section 48

PRIVATE SECURITY INDUSTRY: INTERIM ARRANGEMENTS

Interpretation

1

[^{F1}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).^{F1}]

Textual Amendments

F1 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

2

[^{F2}In this Schedule “licence” means a licence under this Schedule.^{F2}]

Textual Amendments

F2 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

3

[^{F3}In this Schedule “proscribed organisation” has the meaning given by section 3 of the Terrorism Act 2000 (c. 11).^{F3}]

Textual Amendments

F3 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

Unlicensed services: offences

4

[^{F4}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.^{F4}]

Textual Amendments

F4 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

5

[^{F5}(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—

Status: Point in time view as at 01/12/2009.

Changes to legislation: Justice and Security (Northern Ireland) Act 2007 is up to date with all changes known to be in force on or before 24 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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.^{F5]}

Textual Amendments

F5 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

- 6
- [^{F6}(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.
- (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.^{F6]}

Textual Amendments

F6 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

- 7
- [^{F7}(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.^{F7]}

Textual Amendments

F7 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

Application for licence

- 8
- [^{F8}(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

Status: Point in time view as at 01/12/2009.

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- (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—
- (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.^{F8]}

Textual Amendments

F8 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

Issue of licence

- ⁹ [F9(1) The Secretary of State shall grant an application for a licence unless satisfied that any of Conditions 1 to 4 applies.

Status: Point in time view as at 01/12/2009.

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- (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
 - (c) Schedule 13 to the Terrorism Act 2000 (c. 11) (Northern Ireland: private security services).^{F9]}

Textual Amendments

F9 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

Conditions of licence

- ¹⁰ [F10(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,

Status: Point in time view as at 01/12/2009.

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- (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.^{F10]}

Textual Amendments

F10 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), **art. 4**

Refusal of licence

- 11 ^[F11]If the Secretary of State refuses an application for a licence he shall notify the applicant.^{F11]}

Textual Amendments

F11 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), **art. 4**

Duration of licence

- 12 ^[F12(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.^{F12]}

Textual Amendments

F12 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), **art. 4**

Revocation of licence

- 13 ^[F13(1)] The Secretary of State may revoke a licence if satisfied that—

Status: Point in time view as at 01/12/2009.

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- (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,
 - (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.^{F13]}

Textual Amendments

F13 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

Appeal

14

- [^{F14}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.^{F14]}

Textual Amendments

F14 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

15

- [^{F15}(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

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- (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.
- (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).^{F15]}

Textual Amendments

F15 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

Change of personnel

- 16
- [^{F16}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.^{F16]}

Textual Amendments

F16 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

- 17
- [^{F17}(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.^{F17]}

Status: Point in time view as at 01/12/2009.

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Textual Amendments

F17 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

- 18
- ^{F18}(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.^{F18}

Textual Amendments

F18 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

- 19
- ^{F19}(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.^{F19}

Textual Amendments

F19 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

Records

- 20
- ^{F20}(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—

Status: Point in time view as at 01/12/2009.

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- (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.^{F20]}

Textual Amendments

F20 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

- 21 ^{F21}(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.^{F21]}

Textual Amendments

F21 Sch. 6 repealed (N.I) (1.12.2009) by [The Private Security Industry Act 2001 \(Designated Activities\) \(Northern Ireland\) Order 2009 \(S.I. 2009/3048\)](#), [art. 4](#)

Offence: body corporate

- 22 ^{F22}(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

Status: Point in time view as at 01/12/2009.

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- (c) a member of a body corporate the affairs of which are managed by its members.^{F22]}

Textual Amendments

F22 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

Notice

- 23 ^{F23}(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.^{F23]}

Textual Amendments

F23 Sch. 6 repealed (N.I) (1.12.2009) by The Private Security Industry Act 2001 (Designated Activities) (Northern Ireland) Order 2009 (S.I. 2009/3048), art. 4

Status: Point in time view as at 01/12/2009.

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PROSPECTIVE

SCHEDULE 7

Section 50

REPEALS AND REVOCATIONS

TRIALS ON INDICTMENT WITHOUT A JURY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Terrorism Act 2000 (c. 11)	In Schedule 15, paragraph 13.

JURIES

<i>Title and number</i>	<i>Extent of revocation</i>
Juries (Northern Ireland) Order 1996 (S.I. 1996/1141 (N.I. 6))	In Article 4— (a) in paragraph (3), “whose name is”; (b) in paragraph (6), the words from “and in each year” to the end. In Article 6(1), “with their addresses, and (subject to Article 4(10)(b)) occupations”. Article 7. In Article 15(1), sub-paragraph (a) (including the word “and” at the end). Article 16(1) to (3). In Article 17(1), “Subject to Article 16,”.

HUMAN RIGHTS COMMISSION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Northern Ireland Act 1998 (c. 47)	In section 69(9), “and investigations”.

Status:

Point in time view as at 01/12/2009.

Changes to legislation:

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