



# Crime and Security Act 2010

## 2010 CHAPTER 17

PROSPECTIVE

### *Private security industry*

#### **42 Extension of licensing scheme U.K.**

- (1) The Private Security Industry Act 2001 is amended as follows.
- (2) After section 4 there is inserted—

#### *“Licensing of businesses etc*

##### **4A Requirement to license businesses etc**

- (1) Subject to the following provisions of this Act, it shall be an offence for any person to engage in any conduct licensable under this section except under and in accordance with a licence under this section.
- (2) For the purposes of this Act a person engages in conduct licensable under this section if the person carries out—
  - (a) any activities to which paragraph 3 of Schedule 2 applies (immobilisation of vehicles);
  - (b) any activities to which paragraph 3A of Schedule 2 applies (restriction and removal of vehicles); or
  - (c) such other activities of a security operative as are for the time being designated for the purposes of this section by an order made by the Secretary of State.
- (3) In the application of this section to Scotland—
  - (a) the reference in subsection (2)(c) to the Secretary of State must be construed as a reference to the Scottish Ministers; but

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- (b) before making any order under subsection (2)(c) the Scottish Ministers are to consult the Secretary of State.

[<sup>F1</sup>(3A) In the application of this section to Northern Ireland—

- (a) the reference in subsection (2)(c) to the Secretary of State must be construed as a reference to the Department of Justice in Northern Ireland; but
- (b) before making any order under subsection (2)(c) the Department of Justice in Northern Ireland must consult the Secretary of State.]

(4) Where an individual carries out an activity referred to in subsection (2) on behalf of another person—

- (a) the individual is not to be regarded as carrying out the activity for the purposes of this section (and other provisions of this Act so far as relating to this section), and
- (b) the other person is to be regarded as carrying out the activity for those purposes (subject to subsection (7)(a)).

(5) For the purposes of subsection (4), an individual carries out an activity on behalf of another in particular if—

- (a) the individual is, and is acting as, that person's employee,
- (b) the other person is a body corporate and the individual is, and is acting as, a director, manager, secretary or other similar officer of the body,
- (c) the other person is a Scottish partnership and the individual is, and is acting as, a partner of the partnership, or
- (d) the other person is an unincorporated association and the individual is, and is acting as, a member of the association,

but an individual does not carry out an activity on behalf of another for those purposes if he is acting pursuant to a contract for the supply of services with that person.

(6) Subsection (7) applies where—

- (a) pursuant to a contract for the supply of services, a person (“the main contractor”) is or may be required to secure that an activity referred to in subsection (2) is carried out, and
- (b) pursuant to a further contract for the supply of services the main contractor secures the carrying out of the activities by another person (“the sub-contractor”).

(7) In a case where this subsection applies—

- (a) if the sub-contractor is an individual, the sub-contractor is not to be regarded as carrying out the activities;
- (b) the main contractor is to be regarded as carrying out the activities, whether or not the sub-contractor is also regarded as carrying out the activities.

(8) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

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- (9) In the application of this section—
- (a) in England and Wales, in relation to an offence committed before [<sup>F2</sup>2 May 2022], or
  - (b) in Northern Ireland,
- the reference in subsection (8)(a) to twelve months is to be read as a reference to six months.

#### **4B Exemptions from requirement to license businesses etc**

- (1) If—
- (a) it appears to the Secretary of State that there are circumstances in which conduct licensable under section 4A is engaged in only by persons to whom suitable alternative arrangements will apply, and
  - (b) the Secretary of State is satisfied that, as a consequence, it is unnecessary for persons engaging in any such conduct in those circumstances to be required to be licensed under that section,
- the Secretary of State may by regulations prescribing those circumstances provide that a person shall not be guilty of an offence under section 4A in respect of any conduct engaged in by that person in those circumstances.
- (2) In subsection (1)(a), the reference to suitable alternative arrangements is a reference to arrangements that the Secretary of State is satisfied are equivalent, for all practical purposes so far as the protection of the public is concerned, to those applying to persons applying for and granted licences under section 4A.”

<sup>F3</sup>(3) .....

- (4) In section 9 (licence conditions), after subsection (2) there is inserted—

“(2A) The conditions that may be prescribed or imposed in relation to any description of licence under section 4A include conditions requiring the person to whom the licence is granted to be a member of a nominated body or scheme.

(2B) In subsection (2A) “nominated body or scheme” means such body or scheme as is for the time being nominated for the purposes of that subsection by the Authority with the approval of the Secretary of State (and different bodies or schemes may be appointed in relation to different descriptions of licence).

(2C) The Secretary of State must consult the Scottish Ministers before approving a nomination under subsection (2B) affecting persons carrying out activities in Scotland.

[<sup>F4</sup>(2D) The Secretary of State must consult the Department of Justice in Northern Ireland before approving a nomination under subsection (2B) affecting persons carrying out activities in Northern Ireland.”]

- (5) In section 19 (powers of entry and inspection), in subsection (1)—

- (a) after “enter” there is inserted “ (a) ”;
- (b) at the end there is inserted

“; and

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- (b) any premises which appear to him to be premises on which a person engages in conduct licensable under section 4A, other than premises occupied exclusively for residential purposes as a private dwelling.”

(6) In section 23 (criminal liability of directors etc), at the end there is inserted—

“(3) Where an offence under any provision of this Act is committed by an unincorporated association and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) in the case of an unincorporated association which is a partnership, a partner or a person purporting to be a partner,  
(b) in the case of any other unincorporated association, an officer of the association or any member of its governing body or a person purporting to act in any such capacity,

he (as well as the association) shall be guilty of that offence and liable to be proceeded against and punished accordingly.”

(7) In section 25 (interpretation), after subsection (1) there is inserted—

“(1A) References in this Act to an unincorporated association include a partnership which is not regarded as a legal person under the law of the country or territory under which it is formed; and references to a member of an unincorporated association are to be construed, in relation to such a partnership, as references to a partner.”

(8) Schedule 1 (which makes minor and consequential amendments to the Private Security Industry Act 2001) is part of this section.

#### Textual Amendments

- F1** Words in s. 42(2) inserted (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **22(3)(a)** (with arts. 24-28)
- F2** Words in s. 42 substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**
- F3** S. 42(3) repealed (1.10.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 10 Pt. 3** (with s. 97); [S.I. 2012/2075](#), art. 3(h)
- F4** Words in s. 42(4) inserted (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **22(3)(b)** (with arts. 24-28)

### 43 Extension of approval scheme **U.K.**

- (1) The Private Security Industry Act 2001 is amended as follows.
- (2) For the italic heading before section 14 (“Approved contractors”) there is substituted “Approval scheme”.
- (3) In section 14 (register of approved contractors)—
- (a) in the heading, for “contractors” there is substituted “persons”;
- (b) in subsection (1), for “approved providers of security industry services” there is substituted “approved persons undertaking security activities”;
- (c) after that subsection there is inserted—

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- “(1A) For the purposes of this section, the following undertake security activities—
- (a) a person providing security industry services; and
  - (b) a person who employs an individual to carry out the activities of a security operative on his behalf.”;
- (d) in subsection (3)(c), after “services” there is inserted “ or activities ”.
- (4) In section 15 (arrangements for the grant of approvals), for subsection (1) there is substituted—
- “(1) It shall be the duty of the Authority to secure that there are arrangements in force for granting approvals to persons to whom this section applies.
- (1A) This section applies to—
- (a) a person who provides security industry services and seeks approval in respect of any such services that he is providing or proposes to provide; and
  - (b) a person who employs an individual to carry out the activities of a security operative on his behalf and seeks approval in respect of those activities or other such activities that he proposes to employ an individual to carry out.”
- (5) In that section, in subsection (2)—
- (a) in paragraphs (a) and (b), after “services” there is inserted “ or activities ”;
  - (b) in paragraph (c), after “services” there is inserted “ or carrying out of the activities ”.
- (6) In that section, in subsection (3)—
- (a) in paragraph (a), after “services” there is inserted “ or securing the carrying out of the activities ”;
  - (b) in paragraph (d), at the end there is inserted “ or activities ”.
- (7) In section 16 (right to use approved status)—
- (a) in subsection (1) the words “as an approved provider of security industry services” are repealed;
  - (b) in subsection (2)(a), the words “as an approved provider of any security industry services” are repealed.
- (8) In section 17 (imposition of requirements for approval), in subsection (1)—
- (a) after “provide that” there is inserted “ (a) ”;
  - (b) at the end there is inserted “; and  
“(b) persons of prescribed descriptions are to be prohibited from securing that activities of a security operative are carried out on their behalf by an employee unless they are for the time being approved in respect of those activities in accordance with arrangements under section 15.”
- (9) In that section, in subsection (3)—
- (a) in paragraph (a), after “services” there is inserted “ or activities ”;
  - (b) in paragraph (b), after “services” there is inserted “ or employing an individual to carry out those activities ”;
  - (c) after “in respect of those services” there is inserted “ or activities ”.

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- (10) In that section, in subsection (5)—
- (a) after “any services” there is inserted “ or activities ”;
  - (b) in paragraph (a), after “those services” there is inserted “ or the carrying out of those activities ”.

#### **44 Charges for vehicle release: appeals U.K.**

[<sup>F5</sup>(1) The Private Security Industry Act 2001 is amended as follows.

[<sup>F6</sup>(2) Before section 23 there is inserted—

##### **“Charges for vehicle release: appeals in Northern Ireland**

- (1) The Department of Justice shall by regulations make provision for the purpose specified in subsection (2) in a case where, in Northern Ireland, a person carries out—
  - (a) an activity to which paragraph 3 of Schedule 2 applies by virtue of sub-paragraph (1)(c) of that paragraph (demanding or collecting a charge as a condition of the removal of an immobilisation device); or
  - (b) an activity to which paragraph 3A of Schedule 2 applies by virtue of sub-paragraph (1)(d) of that paragraph (demanding or collecting a charge as a condition of the release of a vehicle).
- (2) The purpose referred to in subsection (1) is to entitle a person otherwise entitled to remove the vehicle to appeal against the charge.
- (3) Regulations under this section shall specify the grounds on which an appeal may be made.
- (4) The grounds may include in particular—
  - (a) contravention of a code of practice issued by the Authority;
  - (b) contravention of any requirement imposed by or under this Act (including a condition contained in a licence granted under this Act).
- (5) Regulations under this section shall make provision for and in connection with the person to whom an appeal may be made.
- (6) That person may in particular be—
  - (a) a person exercising functions of adjudication or the hearing of appeals under another enactment;
  - (b) a body established by the Department of Justice under the regulations;
  - (c) an individual appointed under the regulations by the Department of Justice or by another person specified in the regulations.
- (7) Regulations under this section may also include provision—
  - (a) as to the procedural conditions to be satisfied by a person before an appeal may be made;
  - (b) as to the payment of a fee by the appellant;
  - (c) as to the procedure (including time limits) for making an appeal;
  - (d) as to the procedure for deciding an appeal;
  - (e) as to the payment to the appellant by the respondent of—

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- (i) the charge against which the appeal is made;
  - (ii) other costs incurred by the appellant in consequence of the activity referred to in subsection (1);
- (f) as to the payment by a party to an appeal of—
- (i) costs of the other party in relation to the adjudication;
  - (ii) other costs in respect of the adjudication;
- (g) as to the payment by the respondent to an appeal, in a case where the appeal is granted, of a charge in respect of the costs of adjudications under the regulations;
- (h) as to the effect and enforcement of a decision of the person to whom an appeal is made;
- (i) requiring or authorising the person to whom an appeal is made to provide information relating to the appeal to the Authority;
  - (j) to the effect that a person who makes a representation that is false in a material particular, and does so recklessly or knowing it to be false, commits an offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale.
- (8) The provision specified in paragraphs (e), (f) and (g) of subsection (7) includes provision authorising the person to whom an appeal is made to require payment of the matters specified in those paragraphs.”]
- (3) In section 24 (orders and regulations), in subsection (4), after “section 3(2)(j)” there is inserted “ or 22A ” . ]

#### Textual Amendments

- F5** S. 44 repealed (E.W.) (1.10.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 10 Pt. 3** (with s. 97); [S.I. 2012/2075](#), art. 3(h)
- F6** S. 44(2) substituted (N.I.) (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **22(4)** (with arts. 24-28)

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