

## SCHEDULES

### SCHEDULE 15

Section 171

#### PRIVATE SECURITY INDUSTRY ACT 2001: SCOTTISH EXTENT

- 1 The Private Security Industry Act 2001 (c. 12) is amended as follows.
- 2 In section 2 (directions etc. by the Secretary of State)—
- (a) in subsection (2), the existing words “shall consult the Authority” become paragraph (a) and after that paragraph add “and
    - (b) where any of those directions relates wholly or mainly to the exercise of the Authority’s activities in or as regards Scotland, shall obtain the consent of the Scottish Ministers.”; and
  - (b) in subsection (3), the existing words “the Secretary of State with such information about its activities as he may request” become paragraph (a) and after that paragraph add “and
    - (b) the Scottish Ministers with such information about its activities in or as regards Scotland as they may request.”
- 3 After section 2 insert—

#### **“Authority to be treated as cross-border public authority etc. for certain purposes**

For the purposes of—

- (a) section 5(5B) of the Parliamentary Commissioner Act 1967 (restriction on investigatory powers of Parliamentary Commissioner for Administration);
- (b) section 23(2)(b) of the Scotland Act 1998 (power of Scottish Parliament to require persons outside Scotland to give evidence or produce documents);
- (c) section 70(6) of that Act of 1998 (accounts prepared by cross-border authorities);
- (d) section 91(3)(d) of that Act of 1998 (provision for investigation of certain complaints); and
- (e) section 7(5) of the Scottish Public Services Ombudsman Act 2002 (restriction on investigatory powers of ombudsman),

the Authority is to be treated as a cross-border public authority within the meaning of that Act of 1998.”

- 4 In section 3 (conduct prohibited without a licence), after subsection (3) insert—
- “(3A) In the application of this Act to Scotland—
- (a) the reference in subsection (3) 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 (3) the Scottish Ministers are to consult the Secretary of State.”
- 5 In section 7 (licensing criteria), after subsection (5) insert—
- “(5A) Before giving approval under subsection (5), the Secretary of State shall consult the Scottish Ministers.”
- 6 In section 11 (appeals in licensing matters)—
- (a) in subsection (1), after “court” insert “(in Scotland, to the sheriff”);
- (b) in subsection (4), the existing words from “a magistrates” to “Crown Court” become paragraph (a) and after that paragraph insert “or
- (b) the sheriff makes a decision on an appeal under that subsection, an appeal to the Sheriff Principal,”; and
- (c) in subsection (6)(d), the existing words from “the appropriate” to the end become sub-paragraph (i) and after that sub-paragraph add “or
- (ii) the sheriff or the Sheriff Principal may direct pending an appeal from a determination made on an appeal to the sheriff.”
- 7 In section 13 (licensing at local authority level), at the end add—
- “(8) This section does not apply to Scotland.”
- 8 In section 15(1) (duty to secure arrangements are in force for granting certain approvals), at the end of paragraph (a) add “or in Scotland”.
- 9 In section 18 (appeals relating to approvals)—
- (a) in subsection (1), after “court” insert “(in Scotland, to the sheriff”);
- (b) in subsection (4), the existing words from “a magistrates” to “Crown Court” become paragraph (a) and after that paragraph insert “or
- (b) the sheriff makes a decision on an appeal under that subsection, an appeal to the Sheriff Principal,”; and
- (c) in subsection (5)(d), the existing words from “the appropriate” to the end become sub-paragraph (i) and after that sub-paragraph add “or
- (ii) the sheriff or the Sheriff Principal may direct pending an appeal from a determination made on an appeal to the sheriff.”
- 10 In section 23 (criminal liability of directors etc.), the existing words become subsection (1) and after that subsection add—
- “(2) Where an offence under any provision of this Act is committed by a Scottish partnership 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) a partner; or
- (b) any person who was purporting to be a partner,
- he (as well as the partnership) shall be guilty of that offence and liable to be proceeded against and punished accordingly.”
- 11 In section 24 (consultation with Security Industry Authority before making orders or regulations etc.)—
- (a) after subsection (1) insert—

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- “(1A) But in Scotland “prescribed” in paragraph 8(3)(d) of Schedule 2 to this Act includes prescribed by regulations made by the Scottish Ministers.”;
- (b) in subsection (2), after “Secretary of State” insert “or the Scottish Ministers”;
- (c) in subsection (3), after paragraph (b) insert “or
- (c) an order or regulations made by the Scottish Ministers.”;
- (d) after subsection (3) insert—
- “(3A) A statutory instrument containing an order or regulations made by the Scottish Ministers, other than an order under section 26(2), shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”;
- (e) in subsection (4), after “consult” insert “the Scottish Ministers (except where the order is made by virtue of section 3(2)(j)) and”; and
- (f) in subsection (5)(b), at the end add “(or where the order is, or regulations are, made by the Scottish Ministers, as the Scottish Ministers think fit)”.
- 12 In section 26 (short title, commencement and extent)—
- (a) after subsection (2) insert—
- “(2A) In the application of this Act to Scotland—
- (a) the reference in subsection (2) to the Secretary of State must be construed as a reference to the Scottish Ministers; but
- (b) before making any order under subsection (2) the Scottish Ministers are to consult the Secretary of State.”; and
- (b) in subsection (4), after “Wales” insert “and to Scotland”.
- 13 In Schedule 1 (the Security Industry Authority)—
- (a) in paragraph 1 (membership and chairman), at the end add—
- “(4) Before appointing the chairman, the Secretary of State shall consult the Scottish Ministers.”;
- (b) in paragraph 3 (removal from office), the existing words become sub-paragraph (1) and after that sub-paragraph insert—
- “(2) Before removing a person from office as chairman of the Authority, the Secretary of State shall consult the Scottish Ministers.”;
- (c) in paragraph 6 (staff etc.), after sub-paragraph (2) insert—
- “(2A) Before giving consent under sub-paragraph (2), the Secretary of State shall consult the Scottish Ministers.”;
- (d) in paragraph 14 (money), after sub-paragraph (1) insert—
- “(1A) The Scottish Ministers may make payments to the Authority out of the Scottish Consolidated Fund in relation to the exercise by the Authority of its functions in or as regards Scotland.”;
- (e) in paragraph 16 (accounts)—
- (i) in sub-paragraph (3), after second “State” insert “, to the Scottish Ministers”; and

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(ii) after sub-paragraph (3) insert—

“(3A) The Scottish Ministers shall present documents received by them under sub-paragraph (3) to the Scottish Parliament.”; and

(f) in paragraph 17 (annual report)—

(i) in sub-paragraph (1), after “State” insert “and to the Scottish Ministers”; and

(ii) at the end add—

“(3) The Scottish Ministers shall lay a copy of each such report before the Scottish Parliament.”

14 In Schedule 2 (activities liable to control under the Private Security Industry Act 2001 (c. 12))—

(a) in paragraph 3 (immobilisation of vehicles), at the end add—

“(4) This paragraph does not apply to any activities carried out in Scotland.”;

(b) in paragraph 4 (private investigations), after sub-paragraph (4) insert—

“(4A) This paragraph does not apply to any activities of a person who is an advocate or solicitor in Scotland in the provision of legal services—

(a) by him;

(b) by any firm of which he is a partner or by which he is employed;

(c) by any body corporate of which he is a director or member or by which he is employed.”;

(c) after paragraph 4 insert—

*“Taking precognitions*

4A (1) This paragraph applies (subject to sub-paragraph (2)) to the taking, other than on behalf of the Crown, of a precognition for the purposes of, or in anticipation of—

(a) criminal or civil proceedings in Scotland; or

(b) proceedings on an application under section 65(7) or (9) of the Children (Scotland) Act 1995.

(2) This paragraph does not apply to any activities of a person who is an advocate or solicitor in Scotland.”;

(d) in paragraph 8(2) (door supervisors etc. for public houses, clubs and comparable venues) after paragraph (e) add—

“(f) any premises specified in a public house licence (within the meaning of the Licensing (Scotland) Act 1976) which is for the time being in force;

(g) any premises specified in an hotel licence (within the meaning of that Act) which is for the time being in force;

(h) any premises specified in an entertainment licence (within the meaning of that Act) which is for the time being in force if they comprise a dance hall;

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- (i) any premises comprised in a place to which an occasional licence granted under section 33(1) of that Act (occasional licence for premises other than licensed premises or clubs) to the holder of a public house licence or hotel licence extends;
  - (j) any premises comprised in a place to which an occasional permission granted under section 34(1) of that Act (occasional permission for sale of alcohol in the course of catering for events arising from or related to the activities of a voluntary organisation) extends;
  - (k) any premises comprised in a place or class of place for the time being specified by resolution under section 9(5)(b) of the Civic Government (Scotland) Act 1982 (resolution specifying place or class of place falling to be licensed if to be used as place of public entertainment);
  - (l) any premises comprised in a place where an activity for the time being designated under section 44(1) of that Act (additional activities for which a licence is required) is carried on provided that, in the case of an activity designated under paragraph (a) of that section, the requisite resolution under section 9 of that Act has been obtained;”;
- (e) after paragraph 9 add—

*“Taking precognitions*

- 10 This paragraph applies to any activities which are activities of a security operative by virtue of paragraph 4A of this Schedule.”