

CRIME AND SECURITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Private security industry

Section 42: Extension of licensing scheme

189. [Section 42](#) amends the Private Security Industry Act 2001 (“the 2001 Act”).
190. The 2001 Act makes provision for the licensing of individuals carrying out security industry activities. The licensing is the responsibility of the Security Industry Authority (“the SIA”). It is an offence under the 2001 Act for an unlicensed *individual* to engage in any activity for which a licence is required, or to supply an unlicensed individual to engage in such activities. In the case of vehicle immobilisers it is an offence for an occupier of premises to permit an unlicensed individual to engage in vehicle immobilisation on the premises.
191. [Section 42](#) provides for *businesses* to be licensed by the SIA. At the outset, businesses carrying out vehicle immobilisation activities will require a licence. The purpose is to regulate the activities of such businesses (and particularly, in relation to vehicle immobilisation, such matters as release fees and warning signs).
192. [Section 42](#) inserts new sections 4A and 4B into the 2001 Act.
193. The new section 4A of the 2001 Act introduces a licence requirement in relation to businesses carrying vehicle immobilisation or restriction and removal of vehicles (see subsection (2)(a) and (b)). The Secretary of State may designate other security activities in the future which will require business licensing if they are activities listed in Schedule 2 to the 2001 Act (see subsection (2)(c)). New section 4A creates an offence of engaging in an activity licensable under the section without a licence (see subsection (1)).
194. Subsection (3) of new section 4A deals with the application of the section to Scotland and requires Scottish Ministers exercising functions of the Secretary of State under new section 4A to consult the Secretary of State.
195. Subsections (4) to (7) limit the business licence requirement to those responsible for control of, or decisions of, businesses carrying out the licensable activity. This includes sub-contractors, except where the sub-contractor is an individual. Individuals acting as sub-contractors or under the employment or direction of another would not require a business licence (but they would continue to require an individual’s licence).
196. Subsection (8) provides penalties for the offences in new section 4A, of up to 12 months’ imprisonment or a fine not exceeding the statutory maximum, or both, on summary conviction; and on indictment of imprisonment up to five years or an unlimited fine, or both.
197. New section 4B sets out exemptions to the requirement for businesses to be licensed under new section 4A. Subsections (1) and (2) enable the Secretary of State to prescribe

*These notes refer to the Crime and Security Act 2010
(c.17) which received Royal Assent on 8 April 2010*

in regulations the circumstances in which a person need not be licensed where suitable alternative arrangements apply.

198. *Subsection (3)* of section 42 amends section 6 of the 2001 Act (offence of using unlicensed wheel-clampers) to make it an offence for a land-owner to allow an unlicensed business to carry out wheel-clamping on his land. Section 6 of the 2001 Act provides the same penalties for offences under that section as those set out in new section 4A(8).
199. *Subsection (4)* amends section 9 of the 2001 Act, which makes provision about the conditions that may be included in a licence under the Act. The amendments will mean that the new business licences may include a condition that the licensee is a member of a body or scheme nominated by the SIA.
200. *Subsection (5)* amends section 19 of the 2001 Act, which sets out the powers of entry and inspection which enable the SIA to inspect premises and documents for the purposes of checking compliance with the Act. These amendments extend these powers to premises on which it appears that activities requiring a business licence are being carried out.
201. *Subsections (6) and (7)* insert a new subsection into section 23 of the 2001 Act to deal with the prosecution and punishment of offences committed by unincorporated associations. As explained above, new criminal offences are being created in respect of business licences, and it is anticipated that many licensees will be unincorporated associations.
202. *Subsection (8)* introduces Schedule 1 to the Act which makes amendments to the 2001 Act which are consequential upon new sections 4A and 4B. In particular, paragraph 15 of the Schedule inserts a new section 23A into the 2001 Act making procedural provision in relation to offences by unincorporated associations.