



# Crime and Security Act 2010

## 2010 CHAPTER 17

### *Private security industry*

PROSPECTIVE

#### **42 Extension of licensing scheme**

- (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>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)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Crime and Security Act 2010, Section 42.