



Private Security Industry Act 2001

2001 CHAPTER 12

Licence requirement

3 Conduct prohibited without a licence

- (1) Subject to the following provisions of this Act, it shall be an offence for a person to engage in any licensable conduct except under and in accordance with a licence.
- (2) For the purposes of this Act a person engages in licensable conduct if—
 - (a) he carries out any designated activities for the purposes of, or in connection with, any contract for the supply of services under which—
 - (i) he,
 - (ii) a body corporate of which he is a director, or
 - (iii) a firm of which he is a partner,is or may be required to secure that any such activities are carried out;
 - (b) in the course of any employment of his by any person he carries out any designated activities for the purposes of, or in connection with, any contract for the supply of services under which his employer is or may be so required;
 - (c) he carries out any designated activities in accordance with directions given to him by or on behalf of a person to whom his services are supplied (whether or not for the carrying out of any such activities) by—
 - (i) a body corporate of which he is a director,
 - (ii) a firm of which he is a partner,
 - (iii) a person by whom he is employed, or
 - (iv) a person to whom he supplies his services under a contract for the purposes of which, or in connection with which, he is or may be required to work in accordance with the directions of another;
 - (d) he acts—
 - (i) in the course of any employment of his by any person, or
 - (ii) in accordance with any directions given as mentioned in paragraph (c),

as the manager or supervisor of one or more individuals required in the course of their employment to engage in licensable conduct falling within paragraph (b);

- (e) he acts—
- (i) in the course of any employment of his by any person, or
 - (ii) in accordance with any directions given as mentioned in paragraph (c),

as the manager or supervisor of individuals who are required in accordance with any such directions to engage in conduct which would be licensable conduct falling within paragraph (b) if they were required to engage in that conduct as the employees of the person to whom their services are supplied;

- (f) he is the director of any body corporate or the partner of any firm at a time when another of the directors or partners of the body or firm, or any employee of the body or firm, engages in licensable conduct falling within any of paragraphs (a) to (e);
- (g) he is the employer of an individual who in the course of any employment of his with that employer carries out any designated activities subject to additional controls;
- (h) in the course of any employment of his, or for purposes connected with his being a director or partner of a body corporate or firm, he carries out designated activities subject to additional controls;
- (i) in the course of any employment of his by any person he acts as the manager or supervisor of one or more individuals the duties of whose employment involve the carrying out of any designated activities subject to additional controls; or
- (j) in circumstances in which it is proposed to impose a charge for the release of immobilised vehicles, he carries out on his own behalf or on behalf of another person any designated activities consisting in activities to which paragraph 3 of Schedule 2 (immobilisation of vehicles) applies.

(3) In this Act “designated activities” means such of the 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; and an order under this subsection may designate different activities for the purposes of different paragraphs of subsection (2).

(4) For the purposes of this section a person shall not be treated as acting as the manager or supervisor of an individual by reason only of his giving directions to that individual in a case in which—

- (a) the directions are given on behalf of a person to whom the individual’s services are provided under a contract for services, and
- (b) the person who under the contract provides the individual’s services or another person acting on his behalf, acts as the manager or supervisor of that individual in relation to the activities carried out by him in accordance with those directions.

(5) Schedule 2 (which defines the activities that are to be treated as the activities of a security operative for the purposes of this Act and those which, so far as they are designated, are subject to additional controls) shall have effect.

(6) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

4 Exemptions from licensing requirement

- (1) If—
- (a) it appears to the Secretary of State that there are circumstances in which licensable conduct 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 this Act,
- then he may by regulations prescribing those circumstances provide that a person shall not be guilty of an offence under section 3 in respect of any conduct engaged in by him in those circumstances.
- (2) The provision that may be made by regulations under subsection (1) includes provision that a person is not to be guilty of an offence in respect of any conduct which is engaged in by him in the course of his employment by, or otherwise under the direction of, a person who is certified by the Authority in accordance with the regulations to be a person who the Authority is satisfied will secure that suitable alternative arrangements apply.
- (3) In subsections (1) and (2) references to suitable alternative arrangements are references to arrangements that the Secretary of State or, as the case may be, the Authority 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.
- (4) A person shall not be guilty of an offence under section 3 in respect of any activities of his as a security operative if—
- (a) he carries out those activities in his capacity as the director of a body corporate, the partner of any firm or the employee of any person;
 - (b) he has applied to the Authority for the grant of a licence and that application is pending;
 - (c) the licence applied for would authorise him to carry out those activities and is not one he has previously been refused;
 - (d) the body, firm or, as the case may be, the employer is a person who is for the time being registered under section 14 as an approved provider of security industry services; and
 - (e) the Authority has given notice to the body, firm or employer that it has authorised that body, firm or employer to use directors, partners or employees whose applications are pending to carry out activities that consist in or include those activities.
- (5) Subsection (4) shall apply in the case of a person who carries out activities under directions given by or on behalf of another person in pursuance of a contract for the supply of the services of the first person as if the first person were an employee of the other one.

5 Offence of using unlicensed security operative

- (1) A person is guilty of an offence if—
- (a) he provides any security industry services to another;
 - (b) those services are provided wholly or partly by means of the activities of an individual as a security operative; and

Status: This is the original version (as it was originally enacted).

- (c) that individual's activities in connection with the provision of those services involve his engaging in licensable conduct in respect of which he is not the holder of a licence.
- (2) In proceedings against any person for an offence under this section it shall be a defence for that person to show either—
- (a) that he did not know, and had no reasonable grounds for suspecting, at the time when the activities were carried out, that the individual in question was not the holder of a licence in respect of those activities; or
 - (b) that he took all reasonable steps, in relation to the services in question, for securing that that individual would not engage in any licensable conduct in respect of which he was not the holder of a licence.
- (3) A person shall not be guilty of an offence under this section in respect of any services in so far as those services are provided by means of conduct in which a person who is not the holder of a licence is entitled to engage by virtue of section 4.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six 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.

6 Offence of using unlicensed wheel-clampers

- (1) A person who is an occupier of any premises is guilty of an offence if—
- (a) any individual carries out, in relation to vehicles on those premises, any designated activities consisting in activities to which paragraph 3 of Schedule 2 (immobilisation of vehicles) applies;
 - (b) the carrying out of those activities involves that individual's engaging in licensable conduct in respect of which he is not the holder of a licence; and
 - (c) those activities are carried out with the permission of that occupier or for the purposes of, or in connection with, any contract for the supply of services to him.
- (2) In proceedings against any person for an offence under this section it shall be a defence for that person to show either—
- (a) that he did not know, and had no reasonable grounds for suspecting, at the time when the activities were carried out, that the individual in question was not the holder of a licence in respect of those activities; or
 - (b) that he took all reasonable steps, in relation to the carrying out of those activities, for securing that that individual would not engage in any licensable conduct in respect of which he was not the holder of a licence.
- (3) A person shall not be guilty of an offence under this section in respect of the carrying out of activities which are comprised in any conduct of an individual in which he is entitled to engage by virtue of section 4.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six 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.