

# CRIME AND SECURITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Private security industry*

#### *Section 44: Charges for vehicle release: appeals*

206. **Section 44** amends the 2001 Act to provide an independent avenue of appeal for motorists in respect of release fees imposed by businesses carrying out wheel clamping and related activities. Under the amendments to the 2001 Act made by section 44 of the Act such businesses will be regulated and will require a licence, issued by the Security Industry Authority, in order to carry out these activities.
207. **Section 44** inserts new section 22A into the 2001 Act. Subsection (1) of section 22A requires the Secretary of State to make regulations for the purpose set out in subsection (2), namely for a person who would otherwise be entitled to remove a vehicle which has been immobilised or towed away, to appeal against the fee charged for release of the vehicle.
208. Subsections (3) and (4) provide for grounds of appeal to be specified in regulations. Subsections (5) and (6) provide for the regulations to specify the individual or body which would consider the appeal (whether that is one established under the regulations or an existing one). Subsection (7) sets out a number of areas of the appeal system for which the regulations may provide, including procedural matters, appeal fees, payments which the parties to an appeal may be required to make, payment of costs, enforcement of appeal decisions, and an offence of making false representations which concern a material particular.
209. There is power for regulations to make provision as to costs of adjudications in two different ways. Subsection (7)(f) enables payment of one party's costs in relation to the adjudication by the other and of the costs of the adjudication.
210. There is also a specific power in subsection (7)(g) to require respondents to pay a charge, when an appeal against them is successful, in respect of the costs of adjudications generally.
211. Subsection (8) enables the regulations to authorise the adjudicator or tribunal to require the payments provided for by subsection (7)(e), (f) and (g) to be made as part of the adjudication.