

# IPI AGM

10 October 2008  
House of Commons

*...make a date in your diary*



## The Professional Investigator

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Dear Members,

Welcome to the summer edition of The Professional Investigator. We trust you will find it interesting and informative.

Since the last edition of our journal the Home Office has published its response to the Partial Regulatory Impact Assessment paper published in August 2008. I am pleased to report that the IPI have been included as a contributor to that process. The response (for which there is a link on the IPI web site) provides the clearest indication that the Home Office is intending to license private investigators and that Option 4 – the fulfilment of competency criteria - appears to be the favoured option. The IPI has long campaigned for the adoption of Option 4 and we look forward to its inception. We have, as yet, no date or timescale for when the Home Office is to make its final decision but we will keep you informed as soon as further information is known.

In this issue we are inviting all members to submit a profile about themselves and their activities in the investigation sector. This is an ideal opportunity to tell other members about you and your firm. The profiles received will be published FREE in future issues of The Professional Investigator as and when space allows. If you are interested in submitting your profile, please forward it to [admin@ipi.org.uk](mailto:admin@ipi.org.uk).

You will all shortly receive notification of our Annual General Meeting which is being held at the prestigious location of the House of Commons on Friday, 10th October, 2008 at 10.00a.m. This is an ideal opportunity for you to have your say and submit any suggestions you may have to the Board of Governors. Please support your Institute by attending. We look forward to seeing you there.

Nicola Amsel  
Principal

## New Address

Please note that the IPI has a new address  
Runnymede Malthouse  
off Hummer Road  
Egham  
Surrey  
TW20 9BD

All contact numbers remain the same

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*Note: Richard Newman wrote in response to the IPI being left off the consultation report*

To all IPI members

There was an IPI contribution and I know as I was there for many of the consultations (including the quiet ones on the terrace that achieve so much) whilst Nicola was there doing her bit for IPI members. It was a team event and I am sure that the omission was an oversight by the Home Office. They forget so many things!

Regards  
Richard

Richard J Newman BA (Hons) Open  
Past President The ABI; FIPI; IPSA.

## IPI History

James D Cole, Companion of the Institute, is also the Institute's Historian. He would welcome any IPI member's submission of items that may be of importance to the history of the Institute. Articles about members in the press, their other achievements, involvement in the consultation over licensing - anything that throws the Institute in a good light - and some controversial stuff, too, may be interesting.

Submissions can, in the first instance, be made to the Institute at Runnymede Malthouse



## Distance Learning Course

Members of the Institute who are approached by members of the public about employment or training opportunities are asked to consider actively promoting the Institute's Distance Learning Course in their replies.

The course covers the practical material that the industry anticipates will form the core training for licensing in the event that the SIA elects to include competency in its license criteria, and would certainly train new investigators in the practice and management of investigations.

Please direct them to our website or to:  
[www.ipitraining.org.uk](http://www.ipitraining.org.uk) for fuller details or contact the Institute by telephone on 0870 330 8622 for further information.

## Election to the Board of Governors

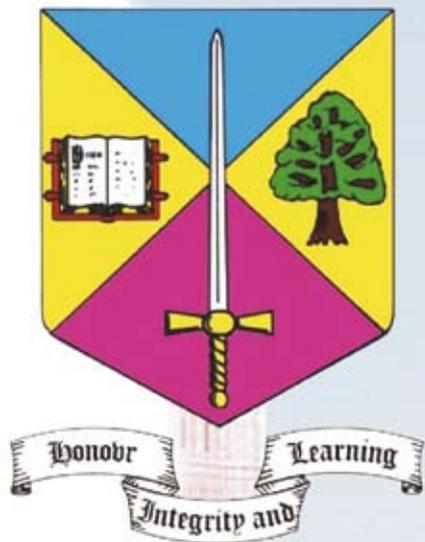
In accordance with the Articles and Bye-Laws of the Institute, three Board members are due to apply for re-election at the AGM. They are David Palmer, Ian Hopkins and Brian Walker.

Nominations for election to the Board are invited from interested parties. Nominations must be submitted in accordance with Articles 29 and 53, which means that nominations **MUST** be received at the IPI office **NOT LATER** than 15th August 2008. Nominees must have been full participating Members (or Fellows) of the IPI for at least **TWO** years prior to election day (and may therefore be nominated even if their two years does not finish until election day itself).

## AGM 2008

At this year's AGM several resolutions will be proposed by the Board regarding the current Articles. The amendments are intended to reflect some anomalies, and also the future of the Institute. The main change is directed towards Affiliate status, which the Board intends to change to Student status while making completion of the Distance Learning Course (with exam) one of the conditions of Associate Membership (other qualifications also being acceptable, of course).

In the interests of clarity, the resultant Bye-Law changes of any resolved Article changes will also be clarified prior to and at the AGM, prior to any vote taking place.



## NOTIFICATION of the

Institute of Professional Investigators  
**Annual General Meeting**  
will take place on  
Friday 10th October 2008  
at the  
House of Commons

If you are proposing to attend it is important  
that you complete the attendance form as  
soon as possible since space for lunch  
and the pre-lunch seminars is limited

## Programme

*enter the House 10.00 - 10.15*

10.15  
AGM

10.45  
**Presentation by**  
***Adam Smith***  
**and**  
***Chris Rothwell***  
**of Tracemart**

11.15  
***“ Unlawful Investigation and the  
Route to Criminality ”***  
***Presented by***  
***Stewart Room***  
**Field Fisher Waterhouse**

*from 12.00*  
**Pre lunch Drinks**  
12.30  
**Lunch in the House**  
*hosted by*  
***Philip Hammond, MP***  
***Shadow Chief Secretary to the Treasury***

## BOOKING FORM

Please indicate **promptly** your attendance,  
space is limited for lunch in the House.  
However, all Members wishing to attend  
will be given priority.

If space permits, each Member attending  
will be allowed to bring one guest at  
Member's Rate - it may be possible for  
Members to be able to bring  
additional guests, please indicate if  
you wish to do so and you will be advised  
as soon as numbers are known.

The cost for the programme  
**“ Day in the House ”**  
*will be £ 80 per person, plus VAT  
to include lunch and wine*

**I wish to attend the “ Day in the House ”**

**Member's Name :**

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**Guest's Name :**

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*Additional Guests if space allows :*

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***Please do not send any money with this notification  
you will be invoiced as soon as your notification  
is received.***

## Government to review no-win, no-fee funding

According to the Employment Law Bulletin, the Ministry of Justice has announced a review of no-win, no-fee funding in employment (as well as personal injury and defamation) cases.

Stating that “we are aware of growing concerns that they may not always be operating in the interests of access to justice”, the Minister of Justice has stated that the review is expected to conclude in the autumn.

## Garden Leave and Implied Terms

In the Employment Law Bulletin it is reported that the High Court, in *SG&R Valuation Service v Boudrais*, held that an employer will sometimes be entitled to force garden leave onto senior directors even when there is no such right in the contract.

In this case, two directors resigned with the intention of joining the competition. There was strong evidence of an intention to misappropriate confidential information. The employer insisted on a period of garden leave, so as to delay the date when they joined their new employer, and sought an injunction enforcing this. The employees resisted on the grounds there was no garden leave clause, they had a right to work, and that by not providing work the old employer was in breach of contract - entitling them to leave and go elsewhere.

The court held that the implied right to provide work is subject to the qualification that they have not, as a result of some prior breach of contract or other duty, “rendered it impossible or reasonably impracticable for the employer to provide work” (para 24). As there was a prima facie case on the documentary evidence that the directors had done just that, the judge held that they had no right to be provided with work by the old employer, and so the employer could insist on a period of garden leave. The injunction was granted.

**Note:** *Although only persuasive in the High Court, this is an important decision. Particularly noteworthy is that a prima facie case established on “strong documentary evidence” – notably e-mails but also a PowerPoint presentation for the potential new employer! For anyone involved in this type of investigation the full Judgment is worth reading and re-states some important principles governing an employee’s duty to his employer*  
**Richard Akehurst BSc FIPI**

## Fake Caller ID service reach the UK

According to The Register, Communications watchdogs have been pressed by MPs to investigate a new service that allows people to fool caller ID systems into displaying a fake number, amid fears it will be abused by ID

fraudsters and other conmen.

It is believed that this practice is currently legal in the UK. The Liberal Democrats have called on regulators to act however, claiming the availability of such services in the UK could make it even easier to fleece the public and invade privacy.

So-called caller ID spoofing services have been available in the US for several years. Now, a new firm named Spookcall is believed to be bringing the controversial practice to the UK with the tagline “be anyone you want to be”.

Ofcom has not responded to requests for comment on the launch. Spookcall works for landlines, mobiles and VoIP calls. Such services have been used in the US by private investigators, direct marketeers, prank callers, voicemail hackers and phone phishers. More benign uses such as allowing call centre workers to work from home are also common. You can get a feel for its applications from Spookcall’s “testimonials” page and this independent site.

It is understood that Spookcall sells pre-paid calls via its website at £5 for every 10 minutes. Users dial a freephone number and enter a PIN to access the spoofing system, which simply requires the number they want to call and the any number they want the call to appear to be from. It also offers to pass your call through voice-changer software.

Liberal Democrat culture, media and sport spokesman Don Foster voiced worries over the

potential uses of caller ID spoofing. He told The Register:

“The opportunities for abuse that Spookcall presents, in terms of its potential for extremely distressing and dangerous hoax calls are a step too far. “I have contacted Ofcom asking them to investigate this service, looking particularly at the ways this service could be exploited. Invasion of privacy and identity theft are serious issues and we must make sure we are all protected as new technological developments emerge.”

Spookcall founder Royce Brisbane defended the service, saying he had sought advice on whether the caller ID spoofing was legal under UK law prior to launching the service. He told The Register: “It should be up to the person you’re calling to make sure you’re who you say you are.”

Brisbane and his partner in the business have a background in selling surveillance equipment to law enforcement and private investigators. They decided to bring caller ID spoofing to the UK after seeing its success Stateside. A version that Brisbane says will only be available to law enforcement is in development, but he declined to discuss details.

The US boom in caller ID spoofing began in 2004, with more than half a dozen services launching in quick succession. The burgeoning practice attracted scrutiny from politicians and

regulators. The FCC, the US equivalent of Ofcom, launched investigations of two of the market’s leading players in 2006.

Last June the House of Representatives passed the Truth in Caller ID Act 2007, which prohibits the intentionally misleading or inaccurate use of spoofing technology. The Bill has now passed the Senate committee stage and is awaiting a full hearing.

### **UK to streamline Identity Theft**

An article appearing on the Ars Technica website by Timothy Lee says that the UK government is developing a proposal to centralise the data-retention practices of communications firms. Under current law, communications providers are required to retain certain kinds of data about their customers for a year, and to make that data available in response to government subpoenas. Under the new proposal, it is understood that these records would have to be automatically submitted to a centralised government database. The government believes this will facilitate law enforcement access to the information, although a court order would still be required to access it.

The proposal is being drafted by the Home Office. It has pushed aggressively for expanded surveillance capabilities. The Home Office claims that new legislation is needed to cope with

## New Members

The Institute would like to welcome the following new members:

Maria Cooper:	MEMBER
Jack Daniels:	AFFILIATE
David de Boick:	MEMBER
Paul Hughes:	MEMBER
Thomas Neill:	MEMBER
Stephen Norfield:	MEMBER
Shamsad Suffee:	AFFILIATE
John Wake:	MEMBER



changes in the way people communicate. The government points to the increased use of e-mail, instant messaging, and other communications technologies, which it claims are hampering its ability to conduct lawful surveillance. It also argues that the legislation is required to comply with the EU's 2006 data retention directive.

The data retention directive has been criticised by civil liberties groups, and the UK proposal has also received harsh reviews from privacy experts. "The fight against terrorism doesn't require a centralised database," Chris Mayers, chief security architect at Citrix Systems, told the BBC. "Such a database would face threats from both outside and inside. The more people who have access to it the more risks there would be."

When data retention is distributed among several private parties, it has some natural resiliency against security breaches. Any given breach will only expose the information of a subset of UK citizens, and will give only a partial picture of those citizens' activities. In contrast, a comprehensive national database would be a treasure trove of information for criminal activities, serving as a kind of "one stop shopping" for identity fraud.

Shadow Home Secretary David Davis (the opposition party's spokesman on Home Office decisions) pointed to the government's poor track record of securing government databases. Last

year, the government lost two computer discs containing government records on 25 million people. And in January the Ministry of Defense admitted it had lost control of a laptop containing unencrypted records on 600,000 prospective military recruits. A centralised government database would only heighten the dangers of such breaches, because a single breach could expose more personal data.

# Fraudulent cohabitation and sick-leave claims

## Dr E Bliss

Cohabitation is a tricky legal subject because no all-embracing definition is accepted. While it is impossible to draw up a list of definitive criteria for cohabitation, 'signposts' derived from case precedence, the authorities and social security publications have accumulated over the years.

Long-term sick leave is common. The only way that a fit person gets away with it is either to be a recluse or constantly to be on the look-out for watchers. Therefore, surveillance operations in these cases need to be intelligence led, and we routinely build an intelligence picture from many small observations.

Within the surveillance field, cohabitation and sick-leave cases are the most interesting but most difficult to get right.

In demonstrating cohabitation, no single factor is necessarily conclusive. Critically, six factors are still commonly cited:

1. same household
2. relationship stability
3. financial support or sharing
4. sex
5. support of children

6. public acknowledgement of them as a couple:  
*Firstly*, the parties routinely live together in the same household.  
*Secondly*, they share daily tasks, routines and responsibilities.  
*Thirdly*, there is evidence in support of stability and permanence in the relationship.  
*Fourthly*, the financial affairs are effectively

## Beware video submissions in which critical events are – with the best of intentions – edited to exclude irrelevancies

joint and in themselves reflect a continuing and stable relationship.

*Fifthly*, there is evidence in support of a sexual relationship.

*Sixthly*, in the opinion of a "reasonable person with normal perceptions" (external to the household, over the passage of significant time), the couple are in fact living together; such evidence might arise from neighbours.

Additionally, we look for other factors such as a

close bond between the alleged cohabiting partner with a cohabitee's child. In our experience it is not sufficient to follow a simplistic formula, such as to monitor a household for the (traditional) three nights per week. Detection must be customised.

Court orders frequently specify a period of time in excess of which cohabitation is required to have been demonstrated. Making systematic, regular and accurate observations over long periods demands professional skill and stealth, notably to avoid being noticed by third parties such as neighbours who are at least liable to talk and share information about their unusual observations or 'feelings'. We have found that compromise by third parties represents a very real problem, which should be considered by all investigators.

Routinely, observations made during long-term assignments might involve many observations at a wide variety of times. Again, many observations may be made over a long period, in themselves each seemingly trivial. But experience has shown that when many such observations are integrated in a large, coherent, systematic format an intelligence picture emerges. For example,

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our exhibits, typically longitudinal calendar charts in spreadsheet format, colour-coded for clarity, are sometimes so cogent as to be completely compelling, to the extent that such cases are settled out of court.

Cohabitation investigations need not be labour intensive due to the simple nature of the observations; especially relevant in long-term surveillance when the trade-off between manpower and budget is considered.

Beware video submissions in which critical events are [with the best of intentions] edited to exclude irrelevancies. There is a danger that the whole presentation becomes difficult to follow - especially by the judge. On the one hand you can't present the judge with a video lasting hours; but on the other hand it is not possible or reasonable to expect the judge to make sense of

an edited video — despite its impeccable audit trail. In cohabitation cases we ourselves prefer video stills taken at critical moments. Stills can be viewed in court; videos cannot. The impact of enlarged, high quality stills can be stunning. On the other hand, certain types of 'sick-leave' cases will warrant video evidence only.

Blayze Ltd specialises in fraud relating to sick-leave, cohabitation, financial dealings, drugs, doping, research, and we have a keen interest in people who are 'not working'.

***The original version of this article was published by the Parliamentary Yearbook 2008***

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# NEW ZEALAND PI'S COULD ARREST AND CHARGE

According to a report in the New Zealand Herald, Private investigators could be given the power to arrest and prosecute criminals under proposed changes to police laws.

Critics say civilians given stronger powers under the Policing Bill would be untrained and unaccountable.

But supporters say the police are too stretched to tackle fraud – even with a new organised crime unit – and a partnership with private investigators would lead to a crackdown on white-collar crime.

Under proposed changes to the Police Act, Commissioner Howard Broad could from “time to time” appoint people with the “powers, functions and duties” of sworn officers.

The power would be on an acting, temporary or casual basis, or for any period the Commissioner and employee agreed on. Similarly, Broad could place an officer with another employer, such as a private investigation firm.

In effect, this would allow private detectives to gather evidence of white-collar crime before a

sworn officer executed search warrants, arrested offenders or even prosecuted.

The bill is being debated by Parliament’s law and order select committee, chaired by Ron Mark. Broad declined to comment until the bill became law.

But Police Association vice-president Stuart Mills said passing police powers to private investigators would confuse the public, who expected a properly trained police service. “Who are private investigators accountable to? The clients who pay them,” said Mills.

“Leave policing to police. That’s what we’re trained to do without fear or favour.” Ron McQuilter, managing director of private investigators Paragon New Zealand, said partnerships with firms such as his were being created by law enforcement agencies worldwide, including the FBI. Paragon is often hired to investigate fraud, sometimes by Government departments.

McQuilter was candid about the lucrative contracts his company would gain from private-public partnerships, but said police did not have the resources to combat white-collar crime - even when

the investigation work had already been done.

A recent case involved \$1.5 million of stolen money. Paragon obtained confessions and handed a complete prosecution file to police. Six months later, nothing has happened, with tens of thousands of recovered dollars sitting in a Paragon safe. “At the moment, there are crooks getting away with crime because the police are too busy to arrest them.”

Mark said he was keeping “an open mind” about contracting private investigators, particularly on fraud offences. Police lacked the manpower and expertise to investigate mid-level fraud and he was concerned they refused to look at some cases, even when private investigators obtained taped confessions. “We are very mindful of the frustration of ordinary Kiwis who are being denied justice because the police don’t have the resources to deal with their case,” he said.

# Israeli spyware-for-hire PIs jailed

John Leyden writes in an article on The Register website that a group of private eyes who applied spyware to industrial espionage have been jailed in Israel, in the latest twist to a long-running high-profile investigation.

Four members of the Israeli Modi'in Ezrahi private investigation firm were sentenced on Monday after they were found guilty of using Trojan malware to steal commercially sensitive information from their clients' competitors.

The Trojan, written and marketed by London-based couple Michael and Ruth Haephrati, was reportedly used to spy on a variety of organisations including the HOT cable television group and a PR agency whose clients include Israel's second biggest mobile operator, Partner Communications.

Asaf Zlotovsky, a manager at the Modi'in Ezrahi detective firm, was jailed for 19 months. Two other employees, Haim Zissman and Ron Barhoum, were sent to prison for 18 and nine months respectively. The firm's former chief exec, Yitzhak Rett, the victim of an apparent accident when he fell down a stairwell during a break in police questioning back in 2005, escaped a jail sentence under a plea bargaining agreement. Rett was fined 250,000 Israeli Shekels (£36,500) and ordered to serve ten

months' probation over his involvement in the scam.

Three other defendants were heavily fined and their licences as private investigators were revoked by a Tel Aviv court, The Jerusalem Post reports.

Michael Haephrati, who honed his computer skills during three years' military service in the Israeli army, and his wife Ruth were fined and sentenced to jail by an Israeli court for their involvement in the case back in 2006. Michael was jailed for two years and his wife for four years after pleading guilty to the scam, and following their extradition from the UK in January 2006.

Modi'in Ezrahi is the largest of three private investigation firms implicated in the case. The case against Modi'in Ezrahi is the first to reach its conclusion. It's unclear whether or not further prosecutions against the two other detective agencies, Krochmal Special Investigations and Pelosoff-Balali, are likely to follow.

Graham Cluley, senior technology consultant at Sophos, said that social engineering tactics specific to individual victims were used to infect PCs. Infected CDs were sent through the post to prospective marks, he added.

Cluley notes that the case illustrates the importance

of firms hiring private investigators to seek assurances that they will refrain from behaving unethically or illegally.

"Most detective agencies would probably balk at the thought of breaking into a company's offices to spy on them, but maybe some feel it is more acceptable to do the spying through malware? A strong message needs to be sent that using spyware to gain competitive advantage over competitors is not only unacceptable, it's against the law," Cluley told El Reg.

The identity of the spyware used in the case is unknown, but earlier reports suggest the Trojan was originally used to spy on Israeli thriller writer Amnon Jackont, the husband of Michael Haephrati's ex-partner, radio show hostess Varda Raziel-Jackont. Jackont's discovery of a Trojan on his PC led to a police investigation that eventually led back to the Haephratis and a much larger plot.

# SIX ARRESTS IN PI MURDER INVESTIGATION

Detectives investigating the 21-year-old murder of a private detective who, it was believed, was about to expose police corruption have made six arrests. Daniel Morgan, 37, was found in a pub car park in Sydenham, south London in 1987 with an axe embedded in his head. His family maintained he was killed by a professional hitman.

Mr Morgan from Islington, north London, was discovered outside the Golden Lion pub on March 10, 1987. His £900 Rolex watch was missing but the £1,100 cash he was carrying was still in his pocket. It is believed he was about to expose a south London drugs network involving corrupt police officers when he was murdered.

A re-investigation into his death by Scotland Yard was launched in 2006 following pressure from the Metropolitan Police Authority (MPA). During that probe, a number of significant witnesses came forward, Scotland Yard said.

As a result, arrests were made. Three men, aged 53, 49 and 47, returned on bail to a central London police station. They had originally been arrested in 2006 on suspicion of murder. Two others, a 53-year-old and a 61-year-old man, appeared by appointment and were arrested on the same charge.

It is believed a 24-year-old serving Pc was also arrested at his place of work on suspicion of misconduct in a public office.

Police said his arrest was not connected to the murder, but to recent events linked to the other five arrests. He is in custody at a central London police station and has been suspended from the force pending further investigations.

# Manslaughter laws

## Manslaughter laws likely to see major rise in company prosecutions, employment experts predict

Legal and corporate responsibility experts have predicted a dramatic increase in the number of firms successfully prosecuted for corporate manslaughter as a result of UK legislation introduced last recently.

But while they forecast a rise in company prosecutions under the Corporate Manslaughter and Corporate Homicide Act 2007, they criticised the legislation for not going far enough because it failed to create a new offence for individual directors who control large corporations.

The experts were speaking at the launch of a professional guide to the new Act for business leaders and safety professionals published by Croner, the leading provider of workplace information and consultancy services, part of Wolters Kluwer.

Norman Selwyn, a leading authority on employment law, said: “The inability of the law to cope with manslaughter charges against all but smaller companies has long been a source of disappointment to proactive campaigners for change.

“It is now estimated that there are likely to be about a dozen or so corporate manslaughter prosecutions each year and that the clarification of the law will more than likely lead to these being

successful. The failures of high-profile cases such as the Herald of Free Enterprise disaster in 1987 and the Southall rail accident in 1997 are unlikely to be repeated.

**The inability of the law to cope with manslaughter charges against all but smaller companies has long been a source of disappointment to proactive campaigners for change**

“But the Corporate Manslaughter Act is by no means perfect. It is strange that it does not place specific health and safety duties on company directors,” Mr Selwyn said. “It therefore begs the question: will it do any good? All corporate entities, whether large or small, including many government departments, are now within the scope of the law. But major industrial accidents will only have a realistic chance of greater prevention if boards of directors formally and publicly accept their collective roles on safety.”

Peter Power, a specialist in crisis management and a member of the reference group to the



UK Commission on national security, echoed Norman Selwyn’s analysis: “Corporate citizenship and governance is about businesses taking greater account of their social, environmental and financial activities, and holding the balance between economic and social goals.

“The pressure on directors of all corporations to move their attitude towards a culture of safety will come from their stakeholders – shareholders, customers, suppliers, regulators, business partners, employees – as well as the law,” Mr Power said. “It is all about up-to-date corporate resilience. It is unacceptable that companies and their directors should learn only from their own mistakes as we used to do in the past. Driving any organisation forward in 2008 depends less on the rear view mirror and more on the road ahead.”

# Legislation Committee Report

## Ruth Hoffmann MIPI

### **Bailiffs in England and Wales are to be subject to an independent regulator**

The Ministry of Justice has announced that Bailiffs in England and Wales are to be subject to an independent regulator. The plans were announced in the government's response to a consultation paper entitled Regulation of Enforcement Agents. The response to the consultation paper is now available on the Security Industry website. The consultation conducted by the Ministry of Justice set out three options for regulation including a preferred option: regulation by the SIA. The intention is to raise the level of bailiffs' professionalism. They will receive more training and will need to pass qualifications. Justice Minister Maria Eagle said the new rules will ensure a common set of standards across the debt enforcement industry and will "look in detail" at instituting a complaints procedure.

The Enforcement Services Association already provides a code of conduct for its members but it does not oppose a new regulatory framework for the industry. The ESA, which represents bailiffs, says such incidents are the actions of a "mindless few". A spokesperson said, "The Association has been a strong supporter of the government's enforcement review and has given

clear and consistent support to the proposals for a regulatory/licensing regime. The entire enforcement profession should not be condemned by the actions of a minority. The Association and its membership continue to work for higher standards within the industry."

### **Money Laundering Almost all businesses where large sums of money are managed now fall under the new regulations**

#### **Update on Proposed Licensing of Private Investigators in India as it applies to non Indian nationals**

The proposed legislation contains a restriction on Non Indian Nationals operating a private detective agency in India. It is proposed that a company, firm or association of persons shall not be considered for issue of a license under the Act if it is not registered in India, or has a proprietor, major shareholder, partner or director who is not a citizen of India.

Special provision is proposed for foreign investigators whereby permission may be

granted to a foreign detective agency to conduct investigations in India if the Indian Ministry of Home Affairs is convinced that the assignment is critical.

The Bill is to be debated this year and may undergo amendments but some training institutes have been set up in anticipation of the Act being passed as training will be mandatory.

#### **Publications**

The United Nations University has published 'Trafficking in Humans: social, cultural and political dimensions', edited by Sally Cameron and Edward Newman. This is available from The Stationery Office under UN sales number E.08.111.A.2 – 978-92-808-1146-9. The price is £22.00.

The Council of Europe has published 'Cyberterrorism – the use of the internet for terrorist purposes'. This is a 497 page document which costs £43.00 and is available from The Stationery Office under reference number 978-92-871-7.

#### **Statutory Instruments 2008**

Statutory Instrument 'The Police and Criminal Evidence Act 1984 (Codes of Practice) Order 2008' has been published. This came into force on the

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01.02.2008 and is available from The Stationery Office under reference 978-0-11-080882-6 price £3.00.

### **Command Papers 2008**

Privy Council Review of Intercept as Evidence: report to the Prime Minister and the Home Secretary, dated 30 January 2008, is available from the Stationery Office under reference number 978-0-10-173242-0.

The Intelligence and Security Committee annual report 2006-2007- is available from the Stationery Office under reference number 978-0-10-172992-5, price £13.90. The Government's response to this report was issued simultaneously and is available under reference number 978-0-10-173002-0 price £5.15. The issue date is 30 January 2008.

### ***And finally (Except for the Scotland list – and the Scottish Assembly has been very busy)***

Richard Akehurst forwarded this to me for inclusion. Richard is located in Australia but also has an office in the UK. The latter is the jurisdiction in which this item about law repeal applies. No doubt members around the world could think of other laws they would like to do away with, some much more recent than 1792.

### **25 March 2008 - Servant law to be axed.**

As part of a clean-up of obsolete legislation an

18th Century law aimed at preventing servants from organising “inside job” burglaries is to be repealed.

Under the Statute Law (Repeals) Bill, to be debated in the House of Lords the 1792 Servants' Characters Act is one of 328 set to be removed or amended. Laws on disorderly houses, poor relief, county gaols, turnpikes and the East India Company are also featured. The repeals were “necessary and overdue” said Justice Secretary Jack Straw.

The Servants' Characters Act was passed following an outcry among wealthy householders over a spate of burglaries thought to have been organised by servants with criminal tendencies. In its 216 years it has only been used once in a successful prosecution.

Other “legal curiosities” set for repeal include a law of 1839 requiring street musicians to leave the area if required to do so by irritated householders. Several acts relating to county gaols and the setting up of turnpike roads - which were maintained locally, with users paying tolls - are also due to be axed.

Mr Straw said: “Laws on turnpikes, workhouses, and the Peterloo Massacre are rightly of interest to historians, but there is no need to retain them on the statute book.

“Obsolete laws can raise people's expectations and invite costly and pointless legal activity. This is a necessary and overdue parliamentary spring clean.”

The bill, if passed, will repeal the whole of 260 parliamentary acts and parts of another 68.

### **Scotland**

- Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2007 (correction slip) is available at no cost from the Stationery Office under reference number ISBN 978-0-11-071771-5 dated February 2008.
- Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Registration Appeals) 2008. Coming into force 17.03.08. Available from the Stationery Office under reference number 978-0-11-081506-0 price £3.00.
- Act of Sederunt (Rules of the Court of Session Amendment) (Fees of Solicitors) 2008. Coming into force 01.04.08. Available from the Stationery Office under reference number 978-0-11-081504-6 price £3.00.
- Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081505-3 price £3.00.
- Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment No. 2 ) 2008. Coming into

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force 31.03.2008. Available from the Stationery Office under reference number 978-0-11-081537-4 price £3.00. This Scottish Statutory Instrument has been made in consequence of a defect in S.S.I.2008/40 (ISBN 978 0 11 081505 3) and is being issued free of charge to all known recipients of that instrument.

- The Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008. Coming into force 01.10.2008. Available from the Stationery Office under reference number 978-0-11-081541- price £11.35.
- The Bankruptcy Fees (Scotland) Amendment (No. 2) Regulations 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081543- 5 price £3.00.
- The Bankruptcy (Scotland) Act 1985 (Low Income, Low Asset Debtors etc.) Regulations 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081545-9 price £3.00.
- The Bankruptcy (Scotland) Regulations 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081546-6 price £13.50.
- The Enforcement of Fines (Seizure and Disposal of Vehicles) (Scotland) Regulations 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081565-7 price £3.00.
- The Enforcement of Fines (Diligence) (Scotland) Regulations 2008. Coming into force

01.04.2008. Available from the Stationery Office under reference number 978-0-11-081567-1 price £3.00.

- Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Adult Support and Protection (Scotland) Act 2007) 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081574-9 price £3.00.
- Act of Adjournment (Criminal Procedure Rules Amendment) (Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2008. Coming into force 10.03.2008. Available from the Stationery Office under reference number 978-0-11-081529-9 price £3.50.
- The Bankruptcy and Diligence etc. (Scotland) Act 2007 (Commercial No. 3, Savings and Transitionals) Order 2008. Bringing into operation various provisions of the 2007 Act on 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081578-7 price £3.00.
- Act of Sederunt (Sheriff Court Bankruptcy Rules) 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081584-8 price £4.50.
- Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Fees of Shorthand Writers) 2008. Coming into force 05.05.2008. Available from the Stationery Office under reference number 978-0-11-081586-2 price £3.00.
- Act of Sederunt (Rules of the Court of Session Amendment) (Diligence) 2008. Coming into force

01.04.2008. Available from the Stationery Office under reference number 978-0-11-081585-5 price £4.00.

- Act of Sederunt (Rules of the Court of Session Amendment No. 3) (Bankruptcy and Diligence etc. (Scotland) Act 2007) 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081586-2 price £3.00.
- Act of Sederunt (Rules of the Court of Session Amendment No.4) (Miscellaneous) 2008. Coming into force 01.04.2008. Available from the Stationery Office under reference number 978-0-11-081589-3 price £3.00.
- The Tribunals, Courts and Enforcement Act 2007 (C.14) (Commencement) (Scotland) Order 2008 bringing into operation various provisions of the 2007 Act on 21.04.2008. Available from the Stationery Office under reference number 978-0-11-081609-8 price £3.00.

The Stationery Office website is [www.tsoshop.co.uk](http://www.tsoshop.co.uk)

# Ebay Fined £30 Million for Sales of Fakes

eBay, has been ordered by a French court to pay €38.6m euros in damages to the luxury goods group LVMH for negligence in allowing the sale of fake bags, lipsticks and designer clothes.

The fine of more than £30m is the biggest eBay has faced in Europe and is the latest episode in a series of long-running legal battles it has fought with fashion and cosmetic companies.

The site immediately appealed against the ruling and said luxury goods giants were using the issue of fakes to attack online commerce and keep a stranglehold of sales outlets to the detriment of consumers.

The confrontation has implications for the access of online shoppers to luxury brands through auction sites and also for eBay's business model as it faces the issue of how to police its sites, which at any one time have about 100 million items for sale across the world.

The French company LVMH, the world's leading luxury brand, went to the Paris commercial courts demanding €50m in damages. It argued that eBay had committed "serious errors" by not doing enough to prevent the sales of fake goods in

2006, including Louis Vuitton bags and Christian Dior products; it also argued that eBay had allowed unauthorised sales of perfume brands owned by the group: Christian Dior, Kenzo, Givenchy and Guerlain.

It said that even if the perfumes were real and not fake, their sale on the site violated Christian Dior's distribution network which only allowed sales through specialist dealers. The court ordered eBay to stop selling the perfumes or running ads for the brands, or face a fine of €50,000 a day. The ruling ordered eBay to pay €19.28m to Louis Vuitton Malletier and €17.3m to its sister company Christian Dior Couture for damage to their brand images and causing moral harm. It must also pay €3.25m to the four perfume brands for sales in violation of its authorised network.

The ruling comes a month after another French court ordered eBay to pay the fashion house Hermes €20,000 for allowing the sale of counterfeit handbags.

The site said it had stepped up its measures to prevent counterfeiting since 2006 and now spends \$20m (£10m) a year keeping the site "clean",

using programmes to analyse suspicious sales and working with the owners of brand rights. Last year, 2m items suspected of being counterfeit were removed from the site and 50,000 sales stopped.

The group, which saw around \$60bn worth of goods sold across its platforms last year, says that as a host for independent vendors, it has a limited responsibility and capacity to regulate what is sold. But luxury goods groups have accused eBay, which earns a commission on sales, of facilitating forgeries and fakes by providing a marketplace for vendors who knowingly sell counterfeit items.

The site is also facing other lawsuits worldwide; the New York jeweller Tiffany & Co has sued the site for turning a blind eye to sales of counterfeits and so has L'Oreal.

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