



Jersey

# **WIRELESS TELEGRAPHY (JERSEY) ORDER 2003**

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**APPENDIX**



Jersey

## WIRELESS TELEGRAPHY (JERSEY) ORDER 2003

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Jersey

Jersey Order in Council 1/2004

## WIRELESS TELEGRAPHY (JERSEY) ORDER 2003

*Sanctioned by Order of Her Majesty in Council*

*10th December 2003*

*Registered by the Royal Court*

*2nd January 2004*

*In force date*

*29th December 2003*

**HER MAJESTY**, in exercise of the powers conferred upon Her by section 20(3) of the Wireless Telegraphy Act 1949, section 108 of the Telecommunications Act 1984 and section 204(6) of the Broadcasting Act 1990, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows –

### 1

This Order may be cited as the Wireless Telegraphy (Jersey) Order 2003 and shall come into force on 29th December 2003.

### 2

In this Order, the expression “Jersey” means the Bailiwick of Jersey.

### 3

- (1) Part VI and sections 102, 106(4) and (5), 109(6) and 110(1) of, Schedule 3 to and Part IV of Schedule 7 to, the Telecommunications Act 1984 shall extend to Jersey subject to the exceptions, adaptations and modifications specified in Part I of the Schedule to this Order.
- (2) Sections 168 to 173 of the Broadcasting Act 1990 shall extend to Jersey with the exceptions, adaptations and modifications specified in Part II of the Schedule to this Order.

**4**

Paragraph (e) of article 3(1) of, and paragraph 41 of the Schedule to, the Broadcasting Act 1990 (Jersey) (No. 2) Order 1991<sup>1</sup> are hereby revoked.

**A.K. GALLOWAY**

*Clerk of the Privy Council.*



## **SCHEDULE**

(Article 3)

### **PART I**

#### **EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION OF PROVISIONS OF THE TELECOMMUNICATIONS ACT 1984 TO JERSEY**

**1**

Any reference to an Act of Parliament (including the Telecommunications Act 1984), or to a provision thereof, shall be construed, unless the contrary intention appears, as a reference to that Act or provision as it has effect in Jersey.

**2**

For any reference to a constable there shall be substituted a reference to a police officer.

**3**

Section 74 shall be omitted.

**4**

In section 75 –

- (a) subsection (1) shall be omitted,
- (b) in subsection (2), the words from “for the purpose of” to the end shall be omitted, and
- (c) in subsection (3) –
  - (i) the words “in this section or” and paragraph (a) shall be omitted, and
  - (ii) in paragraph (b), for “that date” in the first place where it occurs there shall be substituted “this section is extended to Jersey”.

**5**

Section 77 shall be omitted.

**6**

In section 79 –

- (a) for subsection (1)(a) and (b) there shall be substituted –
  - (a) any offence under the 1949 Act other than one consisting in the installation or use, otherwise than under and in accordance with a wireless telegraphy licence, of any apparatus not designed for emission (as opposed to reception);”,
- (b) subsection (1)(c) and the word “; and” immediately before it shall be omitted, and
- (c) subsection (6)(b) and the word “; and” immediately before it shall be omitted.

**7**

Sections 80 and 81 shall be omitted.

**8**

- (1) Section 82 shall be modified in accordance with sub-paragraph (2) of this paragraph.
- (2) In the subsections which section 82 substitutes for subsection (3) of section 14 of the Wireless Telegraphy Act 1949 –
  - (a) in subsection (3) –
    - (i) paragraph (c) and the word “; or” immediately before it shall be omitted,
    - (ii) for the words “Secretary of State” there shall be substituted “Crown for the benefit of the Crown Revenues of the Bailiwick of Jersey”, and
    - (iii) the words “or (c)” shall be omitted,
  - (b) subsection (3A) shall be omitted,
  - (c) in subsection (3B), for “by the Secretary of State in such manner as he thinks fit” there shall be substituted “in such manner as the Viscount thinks fit”,
  - (d) subsection (3C) shall be omitted,
  - (e) in subsections (3D) and (3E), for “the Secretary of State” there shall be substituted “a police officer”.

**9**

In section 83 –

- (a) in subsection (1)(b), the words “or proceedings for forfeiture of that property under section 80 or 81 above”, and
- (b) in subsection (2)(b), the words “or under section 80 or 81 above”, shall be omitted.

**10**

Sections 84 to 88 and 90 shall be omitted.

**11**

In section 91 –

- (a) in subsection (1), the words “or for the forfeiture of any apparatus under section 80 or 81 above” and the words from “(whether” to “leave)”, and
- (b) subsection (4), shall be omitted.

**12**

In section 92(1) –

- (a) there shall be inserted, in the appropriate place, the following definition –
  - “ “police officer” means a member of the Honorary Police or of the States of Jersey Police.”; and
- (b) the definition of “the 1967 Act” shall be omitted.

**13**

In section 106(4), after the words “country or territory outside the United Kingdom” there shall be inserted “and the Bailiwick of Jersey”.

**14**

Section 109(6) shall have effect only so far as it relates to Part IV of Schedule 7.

**15**

- (1) Schedule 3 shall be modified in accordance with the following provisions of this paragraph.

- (2) In the subsections which paragraph 1 substitutes for section 14(1) of the Wireless Telegraphy Act 1949 –
- (a) in subsection (1), the words from “on summary” to “indictment”,
  - (b) in subsection (1A), paragraphs (e) and (f) and the words “on summary conviction”,
  - (c) in subsection (1B), the words “on summary conviction”, and
  - (d) in subsection (1C), the words “on summary conviction”,
- shall be omitted.
- (3) For the subsections which paragraph 2 adds at the end of the said section 14 there shall be substituted the following subsection –
- “(8) In this section “police officer” means a member of the Honorary Police or of the States of Jersey Police and “the standard scale” means the standard scale of fines for the time being specified in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.”
- (4) Paragraph 3 shall be omitted.

## 16

Part IV of Schedule 7 shall have effect in relation only to such of the enactments specified there as have effect in Jersey.

## PART II

### EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION OF PROVISIONS OF THE BROADCASTING ACT 1990 TO JERSEY

#### 1.

Any reference to an Act of Parliament, or to a provision thereof, shall be construed, unless the contrary intention appears, as a reference to that Act or provision as it has effect in Jersey.

#### 2

In section 172, in the subsection (3) which subsection (4) substitutes for section 14(3) of the Wireless Telegraphy Act 1949 –

- (a) after paragraph (a) there shall be inserted the word “or”,
- (b) paragraph (b) shall be omitted,

- (c) paragraph (d) and the word “or” immediately before it shall be omitted, and
- (d) for the words “Secretary of State” there shall be substituted “Crown for the benefit of the Crown Revenues in the Bailiwick of Jersey”.

**3**

In section 173(4), for the words “subsection (1)(b)” there shall be substituted “subsection (1)(a)”.

**TELECOMMUNICATIONS ACT 1984**

(1984 c. 12)

*ARRANGEMENT OF SECTIONS***PARTS I TO V**

Section

\* \* \* \* \*

**PART VI****PROVISIONS RELATING TO WIRELESS TELEGRAPHY***Amendment and enforcement of Wireless Telegraphy Acts*

74	*	*	*	*	*	*	*
75	Alteration of penalties and mode of trial for certain offences under the 1949 Act.						
76	Arrest without warrant for certain offences under the 1949 Act.						
77	*	*	*	*	*	*	*
78	Regulations with respect to resistance to interference.						
79	Seizure of apparatus and other property used in committing certain offences under the 1949 Act.						
80	*	*	*	*	*	*	*
81	*	*	*	*	*	*	*
82	Amendments with respect to forfeiture on conviction.						
83	Disposal of apparatus and other property seized by virtue of section 79.						

*Approvals*

84	*	*	*	*	*	*	*
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*Marking etc. of apparatus*

85	*	*	*	*	*	*	*
86	*	*	*	*	*	*	*
87	*	*	*	*	*	*	*

*Miscellaneous and supplemental*

88	*	*	*	*	*	*	*
89	Abolition of advisory committee.						
90	*	*	*	*	*	*	*
91	Construction of references to conclusion of proceedings.						
92	Interpretation of Part VI and minor amendments.						

**PART VII****MISCELLANEOUS AND SUPPLEMENTAL***Miscellaneous*

*	*	*	*	*	*	*
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*Supplemental*

101	*	*	*	*	*	*	*
102	Offences by bodies corporate						
103	*	*	*	*	*	*	*
104	*	*	*	*	*	*	*
105	*	*	*	*	*	*	*
106	General interpretation.						
107	*	*	*	*	*	*	*
108	*	*	*	*	*	*	*
109	Amendments, transitional provisions and repeals.						
110	Short title, commencement and extent.						

**SCHEDULES**

Schedules 1–2 –	*	*	*	*	*	*	*
Schedule 3 –	Penalties and mode of trial under the Wireless Telegraphy Act 1949.						
Schedules 4–6 –	*	*	*	*	*	*	*
Schedule 7 –	Repeals.						

**ELIZABETH II**

1984 c. 12

**AN ACT** to provide for the appointment and functions of a Director General of Telecommunications; to abolish British Telecommunications' exclusive privilege with respect to telecommunications and to make new provision with respect to the provision of telecommunication services and certain related services; to make provision, in substitution for the Telegraph Acts 1863 to 1916 and Part IV of the Post Office Act 1969, for the matters there dealt with and related matters; to provide for the vesting of property, rights and liabilities of British Telecommunications in a company nominated by the Secretary of State and the subsequent dissolution of British Telecommunications; to make provision with respect to the finances of that company; to amend the Wireless Telegraphy Acts 1949 to 1967, to make further provision for facilitating enforcement of those Acts and otherwise to make provision with respect to wireless telegraphy apparatus and certain related apparatus; to give statutory authority for the payment out of money provided by Parliament of expenses incurred by the Secretary of State in providing a radio interference service; to increase the maximum number of members of British Telecommunications pending its dissolution; and for connected purposes.

[12th April 1984]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows<sup>3</sup> –

**PARTS I TO V**

\* \* \* \* \*

**PART VI****PROVISIONS RELATING TO WIRELESS TELEGRAPHY***Amendment and enforcement of Wireless Telegraphy Acts***74 Restriction on revocation or variation of certain wireless telegraphy licences**

\* \* \* \* \*



## **75 Alteration of penalties and mode of trial for certain offences under the 1949 Act**

- (1) \* \* \* \* \*
- (2) Schedule 3 to this Act shall have effect \* \* \*.
- (3) Nothing \* \* \* in any provision of Schedule 3 to this Act –
- (a) \* \* \* \*
- (b) shall render a person liable in respect of an offence committed before [this section is extended to Jersey] to a punishment more severe than the punishment applicable in the case of that offence immediately before that date;

but except as provided above in this subsection the provisions of section 14 of the 1949 Act, as amended by Schedule 3 to this Act and by section 82 below, shall have effect in relation to any conviction on or after that date of an offence under that Act.

## **76 Arrest without warrant for certain offences under the 1949 Act**

- (1) This section applies to –
- (a) any indictable offence under the 1949 Act; and
- (b) any offence under section 1(1) of that Act other than one consisting in the installation or use, otherwise than under and in accordance with a wireless telegraphy licence, of any apparatus not designed or adapted for emission (as opposed to reception).
- (2) A [police officer] may arrest without warrant a person who has committed, or whom the [police officer] with reasonable cause suspects to have committed, an offence to which this section applies, if the name and address of that person are unknown to, and cannot be ascertained by, the [police officer] or the [police officer] has reasonable grounds for doubting –
- (a) whether a name and address furnished by that person as his name and address are his real name and address; or
- (b) whether that person will be at an address furnished by him for a sufficiently long period for it to be possible to serve him with a summons.
- (3) The preceding provisions of this section do not apply to Scotland.
- (4) This section shall not prejudice any power of arrest conferred by law apart from this section.

## **77 Substitution of new section for section 7 of the 1967 Act**

\* \* \* \* \*

## **78 Regulations with respect to resistance to interference**

The following section shall be inserted in the 1949 Act immediately after section 12 –

**“12A Regulations with respect to resistance to interference**

- (1) This section applies to wireless telegraphy apparatus and to any apparatus designed or adapted for use in connection with wireless telegraphy apparatus.
- (2) The Secretary of State may by regulations prescribe requirements (referred to below in this section as technical requirements) to be complied with in the case of apparatus to which this section applies of any class or description specified in the regulations.
- (3) The technical requirements prescribed in respect of any apparatus shall be such as appear to the Secretary of State to be appropriate for the purpose of minimising so far as practicable the risk of interference, arising from the lawful use of any other apparatus, with any wireless telegraphy the apparatus to which the requirements apply (or any apparatus used in connection with it) is designed or adapted to receive.
- (4) The Secretary of State shall not by regulations under this section prescribe any technical requirements unless the Secretary of State is satisfied that those requirements are compatible with the international obligations of the United Kingdom; and where any statutory instrument containing such regulations contains a statement that the Secretary of State is so satisfied, that statement shall be evidence (and, in Scotland, sufficient evidence) of that fact.
- (5) Subject to subsection (6) of this section, any person who in the course of business –
  - (a) sells otherwise than for export or offers for sale otherwise than for export any apparatus which does not comply with the technical requirements applicable to it under regulations made under this section; or
  - (b) lets on hire or offers to let on hire any such apparatus; or
  - (c) indicates (whether by display of the apparatus or by any form of advertisement) his willingness to do anything in relation to any such apparatus that falls within paragraph (a) or (b) above;
 shall be guilty of an offence under this Act.
- (6) In proceedings for an offence under this section brought against any person other than one who in the course of business has manufactured, assembled or imported the apparatus to which the proceedings relate it shall be a defence for the accused to show that he did not know and could not with reasonable care have ascertained that the apparatus did not comply with the requirements in question.”.

**79 Seizure of apparatus and other property used in committing certain offences under the 1949 Act**

- (1) This section applies to –
  - [(a) any offence under the 1949 Act other than one consisting in the installation or use, otherwise than under and in accordance with a wireless telegraphy licence, of any apparatus not designed for emission (as opposed to reception),] \* \* \*

(c) \* \* \* \*

(2) Where –

- (a) a search warrant is granted under section 15(1) of the 1949 Act (entry and search of premises, etc.); and
- (b) the suspected offence (or any of the suspected offences) is an offence to which this section applies;

the warrant may authorise the person or persons named in it to seize and detain, for the purposes of any relevant proceedings, any apparatus or other thing found in the course of the search carried out in pursuance of the warrant which appears to him or them to have been used in connection with or to be evidence of the commission of any such offence.

- (3) If a [police officer] or any person authorised by the Secretary of State to exercise the power conferred by this subsection has reasonable grounds to suspect that an offence to which this section applies has been or is being committed, he may seize and detain, for the purpose of any relevant proceedings, any apparatus or other thing which appears to him to have been used in connection with or to be evidence of the commission of any such offence.
- (4) Nothing in this section shall prejudice any power to seize or detain property which is exercisable by a [police officer] apart from this section.
- (5) Any person who intentionally obstructs any person in the exercise of the power conferred on him under subsection (3) above shall be guilty of an offence under the 1949 Act.
- (6) References in this section to relevant proceedings are references to –
  - (a) any proceedings for an offence to which this section applies; \* \* \*
  - (b) \* \* \* \*

## 80 Proceedings in England and Wales or Northern Ireland for forfeiture of restricted apparatus

\* \* \* \*

## 81 Proceedings in Scotland for forfeiture of restricted apparatus

\* \* \* \*

## 82 Amendments with respect to forfeiture on conviction

The following subsections shall be substituted for subsection (3) of section 14 of the 1949 Act (forfeiture of wireless telegraphy apparatus used in commission of certain offences) –

“(3) Where a person is convicted of –

- (a) an offence under this Act consisting in any contravention of any of the provisions of Part I of this Act in relation to any station for wireless telegraphy or any wireless telegraphy apparatus or in the use of any apparatus for the purposes of interfering with any wireless telegraphy; or

(b) any offence under section 12A of this Act; \* \* \*

(c) \* \* \* \*

the court may, in addition to any other penalty, order all or any of the apparatus of the station, or (as the case may be) of the apparatus in connection with which the offence was committed, to be forfeited to the [Crown for the benefit of the Crown Revenues of the Bailiwick of Jersey].

The power conferred by virtue of paragraph (a) \* \* \* above does not apply to wireless telegraphy apparatus not designed or adapted for emission (as opposed to reception).

(3A) \* \* \* \*

(3B) Apparatus may be ordered to be forfeited under this section notwithstanding that it is not the property of the person by whom the offence giving rise to the forfeiture was committed, and any apparatus ordered to be forfeited under this section may be disposed of [in such manner as the Viscount thinks fit].

(3C) \* \* \* \*

(3D) The court by whom any apparatus is ordered to be forfeited under this section may also order the person by whom the offence giving rise to the forfeiture was committed not to dispose of that apparatus except by delivering it up to [a police officer] within forty-eight hours of being so required by him.

(3E) If a person against whom an order is made under subsection (3D) of this section contravenes that order or fails to deliver up the apparatus to [a police officer] as required he shall be guilty of a further offence under this Act which, for the purpose of determining the appropriate penalty in accordance with the provisions of this section relating to penalties (whether as originally enacted or as substituted by paragraph 1 of Schedule 3 to the Telecommunications Act 1984), shall be treated as an offence under the same provision as the offence for which the forfeiture was ordered.”.

### 83 Disposal of apparatus and other property seized by virtue of section 79

(1) Any property seized by a person authorised by the Secretary of State in pursuance of a warrant under section 15(1) of the 1949 Act or in exercise of the power conferred by section 79(3) above may be detained –

(a) until the end of the period of six months beginning with the date of the seizure; or

(b) if proceedings for an offence to which section 79 above applies involving that property \* \* \* are instituted within that period, until the conclusion of those proceedings.

(2) After the end of the period for which its detention is authorised by virtue of subsection (1) above, any such property which –

(a) remains in the possession of the Secretary of State; and

(b) has not been ordered to be forfeited under section 14 of the 1949 Act (which includes provision for forfeiture of wireless telegraphy apparatus used in the commission of certain offences) \* \* \*

shall be dealt with in accordance with the following provisions of this section (and references in those provisions to the relevant property are references to any property to which this subsection applies).

- (3) The Secretary of State shall take reasonable steps to deliver the relevant property to any person appearing to him to be its owner.
- (4) Where the relevant property remains in the possession of the Secretary of State after the end of the period of one year immediately following the end of the period for which its detention is authorised by subsection (1) above, the Secretary of State may dispose of it in such manner as he thinks fit.
- (5) The delivery of the relevant property in accordance with subsection (3) above to any person appearing to the Secretary of State to be its owner shall not affect the right of any other persons to take legal proceedings against the person to whom it is delivered or against anyone subsequently in possession of the property for the recovery of the property.

#### *Approvals*

#### **84 Approval of wireless telegraphy apparatus etc.**

\* \* \* \* \*

#### *Marking etc. of apparatus*

#### **85 Information etc. to be marked on or to accompany apparatus**

\* \* \* \* \*

#### **86 Information etc. to be given in advertisements**

\* \* \* \* \*

#### **87 Offences under section 85 or 86 due to default of third person**

\* \* \* \* \*

#### *Miscellaneous and supplemental*

#### **88 Wireless telegraphy functions of Director**

\* \* \* \* \*

**89 Abolition of advisory committee**

The committee established under section 9(1)(a) of the 1949 Act (the advisory committee on interference with wireless telegraphy) is hereby abolished; and the provisions of that Act relating to that committee shall accordingly cease to have effect.

**90 Radio interference service**

\* \* \* \* \*

**91 Construction of references to conclusion of proceedings**

- (1) Where proceedings for an offence under the 1949 Act \* \* \* have been terminated by any decision of a description against which an appeal will lie \* \* \*, those proceedings shall not be regarded as concluded for the purpose of section 83(1)(b) above –
  - (a) until the end of the ordinary time for appeal against that decision, if no appeal proceedings in respect of it are brought within that time; or
  - (b) if any such proceedings are so brought, until the conclusion of the appeal proceedings.
- (2) Subsection (1) above shall apply for determining, for the purposes of paragraph (b) of that subsection or section 89(9)(b) above, when any appeal proceedings are concluded as it applies for determining when original proceedings for an offence or (as the case may be) for the forfeiture of any apparatus under that section are concluded.
- (3) References in subsection (1) above, as it applies in relation to any proceedings, to a decision terminating those proceedings, include references to any verdict, sentence, finding or order which puts an end to those proceedings.
- (4) \* \* \* \* \*

**92 Interpretation of Part VI and minor amendments**

- (1) In this Part –
 

“the 1949 Act” means the Wireless Telegraphy Act 1949;

\* \* \* \* \*

[“police officer” means a member of the Honorary Police or of the States of Jersey Police;]

“wireless telegraphy”, “wireless telegraphy apparatus”, “emission” and “interference” have the same meanings as in the 1949 Act.
- (2) In section 15(4) of the 1949 Act (obstruction of search and seizure powers, etc.) –
  - (a) in paragraph (a) the word “intentionally” shall be inserted before the word “obstructs”; and
  - (b) in paragraph (b) the words “without reasonable excuse” shall be inserted before the words “fails or refuses”.

- (3) In section 19(1) of the 1949 Act (meaning of “wireless telegraphy”) in paragraph (iii) of the proviso for the words “electrically coupled” there shall be substituted the words “coupled by means of any material substance”.
- (4) In paragraph 6 of Schedule 2 to the 1949 Act (rules of procedure for appeal tribunal to be made by tribunal) for the words from “by the tribunal” to the end of the paragraph there shall be substituted the words “by the Secretary of State by statutory instrument.”.

## PART VII

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Miscellaneous*

\* \* \* \* \*

#### *Supplemental*

#### **101 General restrictions on disclosure of information**

\* \* \* \* \*

#### **102 Offences by bodies corporate**

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### **103 Summary proceedings**

\* \* \* \* \*

#### **104 Orders and schemes**

\* \* \* \* \*

#### **105 Financial provisions**

\* \* \* \* \*

**106 General interpretation**

- |     |   |   |   |   |   |
|-----|---|---|---|---|---|
| (1) | * | * | * | * | * |
| (2) | * | * | * | * | * |
| (3) | * | * | * | * | * |
- (4) Any power conferred on the Secretary of State by this Act to give a direction if it appears to him to be requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside the United Kingdom [and the Bailiwick of Jersey] includes power to give the direction if it appears to him to be requisite or expedient to do so in order –
- (a) to discharge, or facilitate the discharge of, an obligation binding on Her Majesty's Government in the United Kingdom by virtue of it being a member of an international organisation or a party to an international agreement;
  - (b) to attain, or facilitate the attainment of, any other objects the attainment of which is, in the Secretary of State's opinion, requisite or expedient in view of Her Majesty's Government in the United Kingdom being a member of such an organisation or a party to such an agreement; or
  - (c) to enable Her Majesty's Government in the United Kingdom to become a member of such an organisation or a party to such an agreement.
- (5) For the purposes of any licence granted, approval given or order made under this Act any description or class may be framed by reference to any circumstances whatsoever.

**107 Application to territorial waters and the continental shelf etc.**

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**108 Extension to the Isle of Man and the Channel Islands**

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**109 Amendments, transitional provisions and repeals**

- |     |   |   |   |   |   |
|-----|---|---|---|---|---|
| (1) | * | * | * | * | * |
| (2) | * | * | * | * | * |
| (3) | * | * | * | * | * |
| (4) | * | * | * | * | * |
| (5) | * | * | * | * | * |
- (6) The enactments mentioned in Schedule 7 to this Act (which include some that are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.
- |     |   |   |   |   |   |
|-----|---|---|---|---|---|
| (7) | * | * | * | * | * |
|-----|---|---|---|---|---|



**110 Short title, commencement and extent**

- (1) This Act may be cited as the Telecommunications Act 1984.
- (2) \* \* \* \*
- (3) \* \* \* \*
- (4) \* \* \* \*
- (5) \* \* \* \*
- (6) \* \* \* \*

**SCHEDULES**

**SCHEDULES 1–2**

\* \* \* \* \*

### SCHEDULE 3

#### PENALTIES AND MODE OF TRIAL UNDER THE WIRELESS TELEGRAPHY ACT 1949

- 1 The following subsections shall be substituted for subsection (1) of section 14 of the 1949 Act –

“(1) Any person committing –

- (a) any offence under section 5(a) of this Act; or
- (b) any offence under section 13 of this Act;

shall be liable \* \* \* to imprisonment for a term not exceeding two years or a fine or both.

(1A) Any person committing –

- (a) any offence under section 1(1) of this Act consisting in the installation or use, otherwise than under and in accordance with a wireless telegraphy licence, of any apparatus not designed or adapted for emission (as opposed to reception); or
- (b) any offence under section 3(2) of this Act consisting in a contravention, in relation to any such apparatus, of any regulations made under that section; or
- (c) any offence under section 11(7) or 12(5) of this Act involving or consisting in a contravention of a notice of the Secretary of State in relation to any apparatus, not being apparatus the use of which is likely to cause undue interference with any wireless telegraphy used for the purpose of any safety of life service or any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend; or
- (d) any offence under section 1(5) or 7(4) of this Act; or
- (e) \* \* \* \* \*
- (f) \* \* \* \* \*

shall be liable \* \* \* to a fine not exceeding level 3 on the standard scale.<sup>4</sup>

(1B) Any person committing –

- (a) any offence under section 1(1) of this Act other than one within subsection (1A)(a) of this section; or
- (b) any offence under section 11(7) of this Act other than one within subsection (1A)(c) of this section;

shall be liable \* \* \* to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale,<sup>5</sup> or both.

(1C) Any person committing any other offence under this Act shall be liable \* \* \* to a fine not exceeding level 5 on the standard scale.<sup>6</sup>”

- 2 The following subsections shall be added at the end of section 14 of the 1949 Act –

3.       \*                       \*                       \*                       \*                       \*

**SCHEDULES 4–6**

\* \* \* \* \*

**SCHEDULE 7****REPEALS****PART I**

\* \* \* \* \*

**PART II**

\* \* \* \* \*

**PART III**

\* \* \* \* \*

**PART IV**

## Wireless telegraphy repeals

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo.6 c.54	The Wireless Telegraphy Act 1949	Section 9(1)(a) and (2).  In section 9(7), the words “the advisory committee and” and the words from “in the case of the committee” to “the tribunal”.  In section 10(1), the words from “after” to “committee”.
1967 c.72	The Wireless Telegraphy Act 1967	In section 9(3), the words from “and accordingly” to the end.  Section 11.
1975 c.21	The Criminal Procedure (Scotland) Act 1975.	In Schedule 7C, the entry relating to the Wireless Telegraphy Act 1949.
1977 c.45	The Criminal Law Act 1977.	In Schedule 6, the entry relating to the Wireless Telegraphy Act 1949.

**BROADCASTING ACT 1990**

(1990 c. 42)

*ARRANGEMENT OF SECTIONS***PARTS I TO VII**

Section

\* \* \* \* \*

**PART VIII****PROVISIONS RELATING TO WIRELESS TELEGRAPHY**

- 168 Offence of keeping wireless telegraphy station or apparatus available for unauthorised use.
- 169 Offence of allowing premises to be used for purpose of unlawful broadcasting.
- 170 Prohibition of acts facilitating unauthorised broadcasting.
- 171 Amendments of the Marine, &c., Broadcasting (Offences) Act 1967.
- 172 Amendments of provisions of 1949 Act relating to penalties and forfeiture.
- 173 Extension of search and seizure powers in relation to unlawful broadcasting etc.
- 174 \* \* \* \* \*

**PARTS IX TO X**

\* \* \* \* \*

**SCHEDULES**

\* \* \* \* \*

**ELIZABETH II**

1990 c.42

**AN ACT** to make new provision with respect to the provision and regulation of independent television and sound programme services and of other services provided on television or radio frequencies; to make provision with respect to the provision and regulation of local delivery services; to amend in other respects the law relating to broadcasting and the provision of television and sound programme services and to make provision with respect to the supply and use of information about programmes; to make provision with respect to the transfer of the property, rights and liabilities of the Independent Broadcasting Authority and the Cable Authority and the dissolution of those bodies; to make new provision relating to the Broadcasting Complaints Commission; to provide for the establishment and functions of a Broadcasting Standards Council; to provide for the establishment and functions of a Broadcasting Standards Council; to amend the Wireless Telegraphy Acts 1949 to 1967 and the Marine, &c., Broadcasting (Offences) Act 1967; to revoke a class licence granted under the Telecommunications Act 1984 to run broadcast relay systems; and for connected purposes.

[November 1, 1990]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows<sup>8</sup> –

**PARTS I TO VII**

\* \* \* \* \*

**PART VIII****PROVISIONS RELATING TO WIRELESS TELEGRAPHY****168 Offence of keeping wireless telegraphy station or apparatus available for unauthorised use**

The following section shall be inserted after section 1 of the Wireless Telegraphy Act 1949 (in this Part referred to as “the 1949 Act”) –



**1A Offence of keeping wireless telegraphy station or apparatus available for unauthorised use**

Any person who has any station for wireless telegraphy or apparatus for wireless telegraphy in his possession or under his control and either –

- (a) intends to use it in contravention of section 1 of this Act; or
  - (b) knows, or has reasonable cause to believe, that another person intends to use it in contravention of that section,
- shall be guilty of an offence.”.

**169 Offence of allowing premises to be used for purpose of unlawful broadcasting**

The following section shall be inserted in the 1949 Act after the section 1A inserted by section 168 above –

**1B Offence of allowing premises to be used for purpose of unlawful broadcasting**

- (1) A person who is in charge of any premises which are used for making an unlawful broadcast, or for sending signals for the operation or control of any apparatus used for the purpose of making an unlawful broadcast from any other place, shall be guilty of an offence if –

- (a) he knowingly causes or permits the premises to be so used; or
- (b) having reasonable cause to believe that the premises are being so used, he fails to take such steps as are reasonable in the circumstances of the case to prevent the premises from being so used.

- (2) For the purposes of this section a person is in charge of any premises if he –

- (a) is the owner or occupier of the premises; or
- (b) has, or acts or assists in, the management or control of the premises.

- (3) For the purposes of this section a broadcast is unlawful if –

- (a) it is made by means of the use of any station for wireless telegraphy or apparatus for wireless telegraphy in contravention of section 1 of this Act; or
- (b) the making of the broadcast contravenes any provision of the Marine, &c., Broadcasting (Offences) Act 1967.

- (4) In this section –

“broadcast” has the same meaning as in the Marine, &c., Broadcasting (Offences) Act 1967;

“premises” includes any place and, in particular, includes –

- (a) any vehicle, vessel or aircraft; and
- (b) any structure or other object (whether movable or otherwise and whether on land or otherwise).”.

**170 Prohibition of acts facilitating unauthorised broadcasting**

The following section shall be inserted in the 1949 Act after the section 1B inserted by section 169 above –

**1C Prohibition of acts facilitating unauthorised broadcasting**

(1) If a person –

- (a) does any of the acts mentioned in subsection (2) in relation to a broadcasting station by which unauthorised broadcasts are made, and
- (b) if any knowledge or belief of any circumstances is or are specified in relation to the act, does it with that knowledge or belief or in those circumstances,

he shall be guilty of an offence.

(2) The acts referred to in subsection (1) are –

- (a) participating in the management, financing, operation or day-to-day running of the station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
- (b) supplying, installing, repairing or maintaining any wireless telegraphy apparatus or any other item knowing, or having reasonable cause to believe, that the apparatus or other item is to be, or is, used for the purpose of facilitating the operation or day-to-day running of the station and that unauthorised broadcasts are made by the station;
- (c) rendering any other service to any person knowing, or having reasonable cause to believe, that the rendering of that service to that person will facilitate the operation or day-to-day running of the station and that unauthorised broadcasts are so made;
- (d) supplying a film or sound recording knowing, or having reasonable cause to believe, that an unauthorised broadcast of the film or recording is to be so made;
- (e) making a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unauthorised broadcast of the work is to be so made;
- (f) making an artistic work knowing, or having reasonable cause to believe, that an unauthorised broadcast including that work is to be so made;
- (g) doing any of the following acts, namely –
  - (i) participating in an unauthorised broadcast made by the station, being actually present as an announcer, as a performer or one of the performers concerned in an entertainment given, or as the deliverer of a speech;
  - (ii) advertising, or inviting another to advertise, by means of an unauthorised broadcast made by the station; or
  - (iii) publishing the times or other details of any unauthorised broadcasts made by the station or (otherwise than by publishing

such details) publishing an advertisement of matter calculated to promote the station (whether directly or indirectly),

knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station.

- (3) In any proceedings against a person for an offence under this section consisting in the supplying of any thing or the rendering of any service, it shall be a defence for him to prove that he was obliged, under or by virtue of any enactment, to supply that thing or render that service.
- (4) If, by means of an unauthorised broadcast made by a broadcasting station, it is stated, suggested or implied that any entertainment of which a broadcast is so made has been supplied by, or given at the expense of, a person, then for the purposes of this section he shall, unless he proves that it was not so supplied or given, be deemed thereby to have advertised.
- (5) Section 46 of the Consumer Protection Act 1987 shall have effect for the purpose of construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of any goods.
- (6) In this section –
  - “broadcast” has the same meaning as in the Marine, &c., Broadcasting (Offences) Act 1967,
  - “broadcasting station” means any business or other operation (whether or not in the nature of a commercial venture) which is engaged in the making of broadcasts;
  - “film”, “sound recording”, “literary, dramatic or musical work” and “artistic work” have the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;
  - “speech” includes lecture, address and sermon; and
  - “unauthorised broadcast” means a broadcast made by means of the use of a station for wireless telegraphy or wireless telegraphy apparatus in contravention of section 1 of this Act.”

## **171 Amendments of the Marine, &c., Broadcasting (Offences) Act 1967**

The Marine, &c., Broadcasting (Offences) Act 1967 shall have effect subject to the amendments specified in Schedule 16 (which include amendments that impose further restrictions on broadcasting at sea and on acts facilitating such broadcasting).

## **172 Amendments of provisions of 1949 Act relating to penalties and forfeiture**

- (1) Section 14 of the 1949 Act (penalties and legal proceedings) shall be amended as follows.
- (2) In subsection (1), the following paragraphs shall be inserted before paragraph (a) –
  - “(aa) any offence under section 1(1) of this Act other than one falling within subsection (1A)(a) of this section;

- (ab) any offence under section 1A of this Act other than one falling within subsection (1A)(aa) of this section;
  - (ac) any offence under section 1B or 1C of this Act;”.
- (3) In subsection (1A), the following paragraph shall be inserted after paragraph (a) –
  - “(aa) any offence under section 1A of this Act committed in relation to any wireless telegraphy apparatus not designed or adapted for emission (as opposed to reception);”.
- (4) The following subsections shall be substituted for subsection (3) –
  - “(3) Where a person is convicted of –
    - (a) an offence under this Act consisting in any contravention of any of the provisions of Part I of this Act in relation to any station for wireless telegraphy or any wireless telegraphy apparatus (including an offence under section 1B or (1C of this Act) or in the use of any apparatus for the purpose of interfering with any wireless telegraphy; [or]
    - (b) \* \* \* \* \*
    - (c) any offence under the Marine, &c., Broadcasting (Offences) Act 1967;  
\* \* \*
    - (d) \* \* \* \* \*

the court may, in addition to any other penalty, order such of the following things to be forfeited to the [Crown for the benefit of the Crown Revenues in the Bailiwick of Jersey] as the court considers appropriate, that is to say –

    - (i) any vehicle, vessel or aircraft, or any structure or other object, which was used in connection with the commission of the offence;
    - (ii) any wireless telegraphy apparatus or other apparatus in relation to which the offence was committed or which was used in connection with the commission of it;
    - (iii) any wireless telegraphy apparatus or other apparatus not falling within paragraph (ii) above which was, at the time of the commission of the offence, in the possession or under the control of the person convicted of the offence and was intended to be used (whether or not by that person) in connection with the making of any broadcast or other transmission that would contravene section 1 of this Act or any provision of the Marine, &c., Broadcasting (Offences) Act 1967.
- (3AA) The power conferred by virtue of subsection (3)(a) above does not apply in a case where the offence is any such offence as is mentioned in subsection (1A)(a) or (aa) above.
- (3AB) References in subsection (3)(ii) or (iii) above to apparatus other than wireless telegraphy apparatus include references to –
  - (a) recordings;
  - (b) equipment designed or adapted for use –
    - (i) in making recordings; or
    - (ii) in reproducing from recordings any sounds or visual images; and

- (c) equipment not falling within paragraphs (a) and (b) above but connected, directly or indirectly, to wireless telegraphy apparatus.”.
- (5) In subsection (3E), for the words from “(whether” to provision” there shall be substituted “, shall be treated as an offence committed under the same provision, and at the same time,”.

### **173 Extension of search and seizure powers in relation to unlawful broadcasting etc.**

- (1) In subsection (1) of section 15 of the 1949 Act (entry and search of premises) –
  - (a) after “Act” there shall be inserted “or under the Marine, &c., Broadcasting (Offences) Act 1967”; and
  - (b) the words “and named in the warrant,” shall be omitted.
- (2) In subsection (2) of that section, the words “and named in the authorisation” shall be omitted.
- (3) The following subsection shall be inserted after subsection (2) of that section –
  - “(2A) Without prejudice to any power exercisable by him apart from this subsection, a person authorised by the Secretary of State or (as the case may be) by the BBC to exercise any power conferred by this section may use reasonable force, if necessary, in the exercise of that power.”.
- (4) In [subsection (1)(a)] of section 79 of the Telecommunications Act 1984 (seizure of apparatus and other property used in committing certain offences connected with wireless telegraphy), the following paragraphs shall be inserted after “reception”]; –
  - “(ba) any offence under section 5(b) of that Act;
  - (bb) any offence under the Marine, &c., Broadcasting (Offences) Act 1967;”.
- (5) In subsection (2) of that section –
  - (a) for “the person or persons named in it” there shall be substituted “any person authorised by the Secretary of State to exercise the power conferred by this subsection”; and
  - (b) the words “or them” shall be omitted.
- (6) The following subsection shall be inserted after subsection (4) of that section –
  - “(4A) Without prejudice to any power exercisable by him apart from this subsection, a person authorised by the Secretary of State to exercise any power conferred by this section may use reasonable force, if necessary, in the exercise of that power.”.

### **174 Application of Part VIII to Isle of Man and Channel Islands**

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**PARTS IX TO X**

\* \* \* \* \*

SCHEDULES

\* \* \* \* \*

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<sup>1</sup> *Volume 1990-1991, pages 556 and 565.*

<sup>2</sup> *Volume 1992-1993, page 435 and Volume 1998, page 715.*

<sup>3</sup> *Deletions and words in square brackets indicate adaptations and modifications made by The Wireless Telegraphy (Jersey) Order 2003.*

<sup>4</sup> *Volume 1992-1993, page 437.*

<sup>5</sup> *Volume 1992-1993, page 437.*

<sup>6</sup> *Volume 1992-1993, page 437.*

<sup>7</sup> *Volume 1992-1993, page 435 and Volume 1998, page 715.*

<sup>8</sup> *Deletions and words in square brackets indicate adaptations and modifications made by The Wireless Telegraphy (Jersey) Order 2003.*