



Wireless Telegraphy Act 2006

2006 CHAPTER 36

PART 2

REGULATION OF RADIO SPECTRUM

CHAPTER 5

MISCELLANEOUS

Regulations about wireless telegraphy

45 Regulations

- (1) OFCOM may make regulations prescribing the things that are to be done, or not done, in connection with the use of a wireless telegraphy station or wireless telegraphy apparatus.
- (2) Regulations under subsection (1) may, in particular, require the use of a wireless telegraphy station or wireless telegraphy apparatus to cease on the demand of such persons as may be prescribed by or under the regulations.
- (3) OFCOM may make regulations imposing on a person—
 - (a) to whom a wireless telegraphy licence relating to a wireless telegraphy station or wireless telegraphy apparatus is granted, or
 - (b) who is in possession or control of such a station or such apparatus,the obligations mentioned in subsection (4).
- (4) The obligations are—
 - (a) obligations as to permitting and facilitating the inspection of the station or apparatus;
 - (b) obligations as to the condition in which the station or apparatus is to be kept;

Status: Point in time view as at 08/02/2007.

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- (c) in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, obligations as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations.
- (5) OFCOM may make regulations requiring the holder of a wireless telegraphy licence in respect of which sums are or may become due after the grant of the licence, or after its renewal, to keep and produce such accounts and records as may be specified in the regulations.
- (6) OFCOM may make regulations requiring the holder of a wireless telegraphy licence authorising the establishment or use of a wireless telegraphy station to exhibit at the station such notices as may be specified in the regulations.
- (7) Regulations under this section have effect subject to regulations under section 14.
- (8) Nothing in regulations under this section requires a person to concede any form of right of entry into a private dwelling-house for the purpose of permitting or facilitating the inspection of receiving apparatus.
- (9) The approval of the Secretary of State is required for the making by OFCOM of regulations under this section.
- (10) A statutory instrument containing regulations made by OFCOM under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

46 Offences

- (1) A person commits an offence if—
 - (a) he contravenes regulations made under section 45; or
 - (b) he causes or permits a wireless telegraphy station or wireless telegraphy apparatus to be used in contravention of regulations made under that section.
- (2) A person who commits an offence under this section consisting in a contravention, in relation to receiving apparatus, of regulations made under section 45 is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person who commits an offence under this section other than one falling within subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Misuse of wireless telegraphy

47 Misleading messages

- (1) A person commits an offence if, by means of wireless telegraphy, he sends or attempts to send a message to which this section applies.
- (2) This section applies to a message which, to the person's knowledge—
 - (a) is false or misleading; and
 - (b) is likely to prejudice the efficiency of a safety of life service or to endanger the safety of a person or of a ship, aircraft or vehicle.

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- (3) This section applies in particular to a message which, to the person's knowledge, falsely suggests that a ship or aircraft—
 - (a) is in distress or in need of assistance; or
 - (b) is not in distress or not in need of assistance.
- (4) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (5) In the application of subsection (4) to Scotland or Northern Ireland the reference to 12 months is to be read as a reference to six months.

48 Interception and disclosure of messages

- (1) A person commits an offence if, otherwise than under the authority of a designated person—
 - (a) he uses wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of a message (whether sent by means of wireless telegraphy or not) of which neither he nor a person on whose behalf he is acting is an intended recipient, or
 - (b) he discloses information as to the contents, sender or addressee of such a message.
- (2) A person commits an offence under this section consisting in the disclosure of information only if the information disclosed by him is information that would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person.
- (3) A person does not commit an offence under this section consisting in the disclosure of information if he discloses the information in the course of legal proceedings or for the purpose of a report of legal proceedings.
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) “Designated person” means—
 - (a) the Secretary of State;
 - (b) the Commissioners for Her Majesty's Revenue and Customs; or
 - (c) any other person designated for the purposes of this section by regulations made by the Secretary of State.

49 Interception authorities

- (1) The conduct in relation to which a designated person may give an interception authority is not to include conduct falling within subsection (2), except where he believes that the conduct is necessary on grounds falling within subsection (5).
- (2) Conduct falls within this subsection if it is—

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- (a) conduct that, if engaged in without lawful authority, constitutes an offence under section 1(1) or (2) of the Regulation of Investigatory Powers Act 2000 (c. 23);
 - (b) conduct that, if engaged in without lawful authority, is actionable under section 1(3) of that Act;
 - (c) conduct that is capable of being authorised by an authorisation or notice granted under Chapter 2 of Part 1 of that Act (communications data); or
 - (d) conduct that is capable of being authorised by an authorisation granted under Part 2 of that Act (surveillance etc).
- (3) A designated person may not exercise his power to give an interception authority except where he believes—
- (a) that the giving of his authority is necessary on grounds falling within subsection (4) or (5); and
 - (b) that the conduct authorised by him is proportionate to what is sought to be achieved by that conduct.
- (4) An interception authority is necessary on grounds falling within this subsection if it is necessary—
- (a) in the interests of national security;
 - (b) for the purpose of preventing or detecting crime or of preventing disorder;
 - (c) in the interests of the economic well-being of the United Kingdom;
 - (d) in the interests of public safety;
 - (e) for the purpose of protecting public health;
 - (f) for the purpose of assessing or collecting a tax, duty, levy or other imposition, contribution or charge payable to a government department; or
 - (g) for any purpose (not falling within paragraphs (a) to (f)) that is specified for the purposes of this subsection by regulations made by the Secretary of State.
- (5) An interception authority is necessary on grounds falling within this subsection if it is not necessary on grounds falling within subsection (4)(a) or (c) to (g) but is necessary for purposes connected with—
- (a) the grant of wireless telegraphy licences;
 - (b) the prevention or detection of anything that constitutes interference with wireless telegraphy; or
 - (c) the enforcement of—
 - (i) any provision of this Part (other than Chapter 2 and sections 27 to 31) or Part 3, or
 - (ii) any enactment not falling within sub-paragraph (i) that relates to interference with wireless telegraphy.
- (6) The matters to be taken into account in considering whether the requirements of subsection (3) are satisfied in the case of the giving of an interception authority include whether what it is thought necessary to achieve by the authorised conduct could reasonably be achieved by other means.
- (7) An interception authority must be in writing and under the hand of—
- (a) the Secretary of State;
 - (b) one of the Commissioners for Her Majesty's Revenue and Customs; or
 - (c) a person not falling within paragraph (a) or (b) who is designated for the purposes of this subsection by regulations made by the Secretary of State.

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- (8) An interception authority may be general or specific and may be given—
- (a) to such person or persons, or description of persons,
 - (b) for such period, and
 - (c) subject to such restrictions and limitations,
- as the designated person thinks fit.
- (9) No regulations may be made under subsection (4)(g) unless a draft of them has first been laid before Parliament and approved by a resolution of each House.
- (10) For the purposes of this section the question whether a person's conduct is capable of being authorised under Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23) or under Part 2 of that Act is to be determined without reference—
- (a) to whether the person is someone upon whom a power or duty is or may be conferred or imposed by or under that Chapter or that Part; or
 - (b) to whether there are grounds for believing that the requirements for the grant of an authorisation or the giving of a notice under that Chapter or that Part are satisfied.
- (11) References in this section to an interception authority are references to an authority for the purposes of section 48 given otherwise than by way of the issue or renewal of a warrant, authorisation or notice under Part 1 or 2 of the Regulation of Investigatory Powers Act 2000.
- (12) In this section—
- “crime” has the meaning given by section 81(2)(a) of the Regulation of Investigatory Powers Act 2000 (c. 23);
- “designated person” has the same meaning as in section 48.

Miscellaneous

50 Apparatus on foreign-registered ships etc

- (1) The Secretary of State may make regulations for regulating the use, on board a foreign-registered ship or aircraft while it is within the limits of the United Kingdom and UK territorial sea, of wireless telegraphy apparatus on board the ship or aircraft.
- (2) The regulations may provide—
- (a) for the punishment of persons contravening the regulations by a fine;
 - (b) for the forfeiture of any wireless telegraphy apparatus in respect of which an offence under the regulations is committed.
- (3) The maximum fine for each offence under the regulations is—
- (a) an amount not exceeding level 5 on the standard scale; or
 - (b) a lesser amount.
- (4) The regulations may make different provision for ships or aircraft registered in different countries.
- (5) Except as provided by this section or in consequence of an Order in Council under section 119(3), nothing in sections 8 to 11, 35 to 38, 45 to 49, 105 and 119 operates so as to impose any prohibition or restriction on persons using wireless telegraphy apparatus on board a foreign-registered ship or aircraft.

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- (6) A foreign-registered ship or aircraft is one that—
- (a) is not registered in the United Kingdom; and
 - (b) is registered in a country other than the United Kingdom, the Isle of Man or any of the Channel Islands.

51 Apparatus in vehicles

- (1) This section applies to the power of the Secretary of State under section 7(1) of the Vehicle Excise and Registration Act 1994 (c. 22) to specify—
 - (a) the declaration to be made, and
 - (b) the particulars to be furnished,
 by a person applying for a vehicle licence (within the meaning of that Act).
- (2) The power of the Secretary of State includes power to require that the declaration and particulars extend to any matters relevant for the enforcement of section 8 of this Act in respect of any wireless telegraphy apparatus installed in the vehicle.
- (3) Accordingly, the Secretary of State is not required to issue a vehicle licence under the Vehicle Excise and Registration Act 1994 where the applicant fails to comply with a requirement imposed because of subsection (2).
- (4) A person commits an offence if in providing information that he is required to provide because of subsection (2)—
 - (a) he makes a statement that he knows to be false in a material particular; or
 - (b) he recklessly makes a statement that is false in a material particular.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) Where subsection (4) applies, it applies instead of section 45 of the Vehicle Excise and Registration Act 1994 (c. 22) (false or misleading declarations and information).

52 Wireless personnel

- (1) The Secretary of State may—
 - (a) hold examinations to determine the competence of the persons examined to fill positions in connection with the operation of wireless telegraphy stations or wireless telegraphy apparatus;
 - (b) issue certificates of competence to persons successful in such examinations.
- (2) The certificates of competence are to be of such types as the Secretary of State may from time to time determine.
- (3) The Secretary of State may issue written authorities to such persons as he thinks fit authorising them to fill such positions in connection with the operation of wireless telegraphy stations or wireless telegraphy apparatus as may be specified in the authority.
- (4) The positions that may be so specified are positions for the holding of which the possession of an authority under subsection (3) is a necessity or a qualification under—
 - (a) a wireless telegraphy licence granted under this Act, or
 - (b) a licence granted under a corresponding law of a country or territory under the sovereignty of Her Majesty.

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- (5) If it appears to the Secretary of State that there are sufficient grounds to do so, he may at any time suspend an authority under subsection (3) with a view to its revocation.
- (6) Schedule 3 has effect where an authority is suspended under subsection (5).
- (7) The Secretary of State may charge such fees, if any, as he may determine—
 - (a) to persons applying to take part in an examination under this section;
 - (b) to applicants for, or for copies of, a certificate or authority issued under this section.

53 Surrender of authority

- (1) Where an authority under section 52(3) has ceased to be in force or has been suspended, it is the duty of—
 - (a) the person to whom the authority was issued, and
 - (b) any other person in whose possession or under whose control the authority may be,to cause it to be surrendered to the Secretary of State if required by the Secretary of State to do so.
- (2) A person commits an offence if—
 - (a) he has a duty under subsection (1) to cause an authority under section 52(3) to be surrendered to the Secretary of State, and
 - (b) without reasonable excuse he fails or refuses to do so.
- (3) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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