



# Wireless Telegraphy Act 1949

## 1949 CHAPTER 54

### PART II

#### *Special provisions as to interference*

#### **9 Advisory committee and appeal tribunal**

- (1) For the purposes specified in this Part of this Act there shall be established—
  - (a) a committee appointed by the Postmaster General (in this Part of this Act referred to as " the advisory committee "); and
  - (b) a tribunal (in this Part of this Act referred to as " the appeal tribunal").
- (2) The advisory committee shall be appointed from a panel consisting of such number of persons as the Postmaster General may direct, to be nominated by the President of the Institution of Electrical Engineers with the approval of the Council thereof, being persons who, in the opinion of the President of the said Institution, either possess expert knowledge of the matters falling to be dealt with by the regulations falling to be made under this Part of this Act or represent persons whose interests are likely to be affected by the making thereof, and the Postmaster General and the President of the Institution of Electrical Engineers shall each exercise his powers under this subsection in such manner as to secure that the committee or the panel, as the case may be, is in his opinion sufficiently representative of persons whose interests are likely to be affected as aforesaid.
- (3) Subject to the provisions of this section, the appeal tribunal shall consist of—
  - (a) one person to be appointed by the Lord Chancellor who shall be a barrister of not less than seven years' standing or a solicitor of not less than seven years' standing or a person who has held judicial office, and who shall act only as respects proceedings in England and Wales and shall as respects such proceedings be the president of the tribunal;
  - (b) one person to be appointed by the Lord President of the Court of Session who shall be an advocate of not less than seven years' standing or a solicitor of not less than seven years' standing or a person who has held judicial office, and

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- who shall act only as respects proceedings in Scotland and shall as respects such proceedings be the president of the tribunal;
- (c) one person to be appointed by the Lord Chief Justice of Northern Ireland who shall be a barrister of not less than seven years' standing or a solicitor of not less than seven years' standing or a person who has held judicial office, and who shall act only as respects proceedings in Northern Ireland and shall as respects such proceedings be the president of the tribunal; and
  - (d) two assessors, to assist the president of the tribunal, to be appointed by the President of the Institution of Electrical Engineers with the approval of the Council thereof, being persons who, in the opinion of the President of the said Institution, possess expert knowledge of the matters likely to come before the tribunal and are not members of the advisory committee.
- (4) If, within such time, if any, as may be limited in that behalf by the rules regulating the procedure of the appeal tribunal, the parties to any particular case before the tribunal other than the Postmaster General request the President of the Institution of Electrical Engineers to appoint either one or two specially qualified assessors under this subsection, the President of the Institution of Electrical Engineers shall, with the approval of the Council thereof, select and appoint one or, as the case may be, two such assessors to act for that case, and the assessor or assessors so appointed shall act therefore accordingly in lieu of the assessors appointed under paragraph (d) of subsection (3) of this section, or, if the request is for the appointment of one specially qualified assessor and expresses a specific desire that he shall act in lieu of one only of the assessors appointed under the said paragraph (d), in lieu of such one of the assessors appointed under the said paragraph (d) as the President of the said Institution may select.
- (5) If, in the case of any reference or application to the appeal tribunal under section eleven of this Act, any of the parties or the president of the tribunal, within such time, if any, as may be limited in that behalf by the rules regulating the procedure of the tribunal, request the Lord Chancellor, if the proceedings are in England and Wales, or the Secretary of State, if the proceedings are in Scotland or Northern Ireland, to appoint two additional members of the tribunal to act for that case, the Lord Chancellor or Secretary of State, as the case may be, shall select and appoint two persons, who need not possess any legal qualifications or expert knowledge, to act as additional members of the tribunal for that case, and the additional members so appointed shall act therefore accordingly in addition to the president and the assessors or assessor.
- (6) The provisions of the Second Schedule to this Act shall have effect with respect to the period for which members of the appeal tribunal are to hold office, the appointment of deputies in case of illness or inability to act, the incidental powers of the tribunal, their procedure and the enforcement and proof of their orders.
- (7) The expenses incurred by the advisory committee and the appeal tribunal, to such extent as may be determined by the Postmaster General with the consent of the Treasury, (including, in the case of the committee, such sums in respect of the expenses of the members thereof, and, in the case of the tribunal, such sums by way of fees to, and in respect of the expenses of, the members or persons acting as members thereof, as may be so determined) shall be paid out of moneys provided by Parliament.

## **10 Regulations as to radiation of electro-magnetic energy, etc.**

- (1) The Postmaster General may, after consultation with the advisory committee, make regulations for both or either of the following purposes, that is to say—

- (a) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be used ;
  - (b) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be sold otherwise than for export, or offered or advertised for sale otherwise than for export, or let on hire or offered or advertised for letting on hire, by any person who in the course of business manufactures, assembles or imports such apparatus.
- (2) The said requirements shall be such requirements as the Postmaster General thinks fit for the purpose of ensuring that the use of the apparatus does not cause undue interference with wireless telegraphy, and may in particular include—
- (a) requirements as to the maximum intensity of electromagnetic energy of any specified frequencies which may be radiated in any direction from the apparatus while it is being used; and
  - (b) in the case of an apparatus the power for which is supplied from electric lines, requirements as to the maximum electro-magnetic energy of any specified frequencies which may be injected into those lines by the apparatus,
- and, in so far as appears to the Postmaster General necessary or expedient in the case of the regulations in question, different requirements may be prescribed for different circumstances and in relation to different classes or descriptions of apparatus, different districts or places and different times of use.
- (3) The apparatus to which this section applies shall be such apparatus as may be specified in the regulations made thereunder, being apparatus generating, or designed to generate, or liable to generate fortuitously, electro-magnetic energy at frequencies of not more than three million megacycles per second, and not being wireless telegraphy apparatus.

The references in this subsection to apparatus include references to any form of electric line, and other references in this Act to apparatus shall be construed accordingly.

- (4) It shall not be unlawful for any person to use any apparatus to which this section applies or to sell any such apparatus or offer or advertise it for sale or let it on hire or offer or advertise it for letting on hire by reason only that it does not comply with the requirements applicable under any regulations made under this section, but the non-compliance shall be a ground for the giving of a notice under the next succeeding section or under section twelve of this Act, as the case may be.

## **11 Enforcement of regulations as to use of apparatus**

- (1) If the Postmaster General is of opinion—
- (a) that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (a) of subsection (1) of the last preceding section ; and
  - (b) that either—
    - (i) the use of the apparatus is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend ; or
    - (ii) the use of the apparatus is likely to cause undue interference with any other wireless telegraphy and in fact has caused or is causing such interference in a case where he considers that all reasonable steps to

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minimize interference have been taken in relation to the station or apparatus receiving the telegraphy,

he may serve on the person in whose possession the apparatus is a notice in writing requiring that, after a date fixed by the notice, not being less than twenty-eight days from the date of the service thereof, the apparatus shall not be used, whether by the person to whom the notice is given or otherwise, or, if the Postmaster General thinks fit so to frame the notice, shall only be used in such manner, at such times and in such circumstances as may be specified in the notice:

Provided that—

- (i) if before the date fixed by the notice, a notice is given under subsection (3) of this section requiring the Postmaster General to refer the matter to the appeal tribunal, the Postmaster General's notice shall not operate until the termination of the proceedings before the tribunal, and any notice given under this subsection by the Postmaster General (other than a notice to which paragraph (ii) of this proviso applies) shall be framed accordingly;
  - (ii) if the Postmaster General is satisfied that the use of the apparatus in question is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend, the date to be fixed by the notice may be the date of the service thereof, and paragraph (i) of this proviso shall not apply.
- (2) A notice under subsection (1) of this section maybe revoked or varied by a subsequent notice in writing by the Postmaster General served on the person in whose possession the apparatus then is:

Provided that where a notice under this subsection has the effect of imposing any additional restrictions on the use of the apparatus, the provisions of subsection (1) of this section relating to the coming into force of notices shall apply in relation to the notice as if it had been a notice served under the said subsection (1).

- (3) Where notice has been given under subsection (1) of this section, any person having possession of or any interest in the apparatus to which the notice relates may at any time (whether before or after the date fixed by the said notice), by notice in writing served on the Postmaster General, require the Postmaster General to refer the matter to the appeal tribunal, and the Postmaster General, unless he revokes his notice or modifies it to the satisfaction of the said person, shall refer the matter to the tribunal

This subsection applies in relation to a notice under subsection (1) of this section which has been varied by a subsequent notice as it applies in relation to a notice which has not been so varied.

- (4) On any such reference, the tribunal shall hear the Postmaster General and the person at whose instance the reference was made and any other person appealing to them to be interested who desires to be heard, and has, in accordance with the rules regulating the procedure of the tribunal, procured himself to be made a party to the reference, and—
- (a) if they are satisfied that the apparatus in question complies with requirements applicable to it under the regulations, shall direct the Postmaster General to revoke the notice;
  - (b) if they are satisfied that the said requirements ought properly to be relaxed in relation to the apparatus, may direct the Postmaster General to revoke the notice or to vary it in such manner as may be specified in the direction,
- and the Postmaster General shall revoke or vary the notice accordingly:

Provided that the making by the tribunal of a direction under this subsection or the refusal by the tribunal to make a direction under this subsection shall not prevent any such person as is mentioned in subsection (3) of this section from giving a further notice under subsection (3) of this section and shall not, where the Postmaster General is of opinion that there has been a relevant change in the circumstances, prevent the Postmaster General from giving a further notice under subsection (1) or subsection (2) of this section.

- (5) A direction given under subsection (4) of this section may be absolute, or may be conditional on such steps being taken in relation to the apparatus, or on the apparatus being made to comply with such requirements, as may be specified in the direction, and any question whether or not those steps have been taken or, as the case may be, whether or not the apparatus has been made to comply with those requirements, shall, on the application of the Postmaster General or of any person having possession of or any interest in the apparatus, be determined by the tribunal.
- (6) Where any matter is referred to the tribunal under subsection (3) of this section or any application is made to the tribunal under the last preceding subsection, the tribunal shall, unless the parties otherwise agree, sit in England and Wales, in Scotland or in Northern Ireland, according to the place where the apparatus was at the date of the reference or application, and in some place which in the judgment of the tribunal is reasonably near to the place where the apparatus was as aforesaid.
- (7) Any person who, knowing that a notice of the Postmaster General under this section is in force with respect to any apparatus, uses that apparatus, or causes or permits it to be used, in contravention of the notice, shall be guilty of an offence under this Act.

## **12 Enforcement of regulations as to sales, etc., by manufacturers and others**

- (1) If the Postmaster General is of opinion that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (b) of subsection (1) of section ten of this Act, he may serve on any person who has manufactured, assembled or imported the apparatus in the course of business a notice in writing prohibiting him from selling the apparatus, otherwise than for export, or offering or advertising it for sale, otherwise than for export, or letting it on hire or offering or advertising it for letting on hire.
- (2) Where a notice has been served under subsection (1) of this section, the person on whom the notice has been served may, by notice in writing served on the Postmaster General, require the Postmaster General to refer the matter to the appeal tribunal and the Postmaster General, unless he revokes the notice, shall refer the matter to the tribunal accordingly.
- (3) On any such reference, the tribunal shall hear the Postmaster General and the person at whose instance the reference was made and any other person appearing to them to be interested who desires to be heard and has, in accordance with the rules regulating the procedure of the tribunal, procured himself to be made a party to the reference, and, if they are satisfied that the apparatus in question complies with the requirements applicable to it under the regulations, shall direct the Postmaster General to revoke the notice and he shall revoke it accordingly:

Provided that the making by the tribunal of a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Postmaster General from serving a fresh notice under subsection (1) of this section with respect to the apparatus

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and the refusal by the tribunal to make a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Postmaster General from revoking the notice or the person on whom the notice was served from giving a further notice under subsection (2) of this section.

- (4) The provisions of subsection (6) of section eleven of this Act shall apply in relation to any reference under this section as they apply in relation to any reference under subsection (3) of that section.
- (5) Where a notice has been served under subsection (1) of this section, the person on whom the notice has been served shall, if he contravenes the provisions of the notice without the notice having been previously revoked by the Postmaster General, be guilty of an offence under this Act.

### **13 Deliberate interference**

- (1) Any person who uses any apparatus for the purpose of interfering with any wireless telegraphy shall be guilty of an offence under this Act.
- (2) This section shall apply whether or not the apparatus in question is wireless telegraphy apparatus or apparatus to which any of the preceding provisions of this Part of this Act apply, and whether or not any notice under section eleven or section twelve of this Act has been given with respect to the apparatus, or, if given, has been varied or revoked.