



Wireless Telegraphy Act 1949

1949 CHAPTER 54

PART III

Supplemental

14 Penalties and legal proceedings

- (1) Subject to the provisions of Part I of this Act relating to offences committed in relation to apparatus on board foreign seagoing ships or foreign aircraft, any person committing any offence under this Act—
- (a) shall, if the offence is under Part I of this Act and consists either—
 - (i) 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
 - (ii) in a contravention, in relation to any such apparatus, of any regulation made under the said Part I; or
 - (iii) in a failure or refusal to cause any licence or authority to be surrendered to the Postmaster General,be liable on summary conviction, in the case of the first such offence, to a fine not exceeding ten pounds, and, in the case of any subsequent such offence, to a fine not exceeding fifty pounds;
 - (b) shall, if the offence is under Part II of this Act and consists in the use, or in the causing or permitting of the use, or in the selling, offering or advertising for sale, letting on hire or offering or advertising for letting on hire, of apparatus in contravention of a notice of the Postmaster General, not being apparatus the use of which is likely to cause undue interference with any wireless telegraphy used for the purposes 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, be liable on summary conviction, in the case of the first such offence, to a fine not exceeding ten pounds, and, in the case of any subsequent such offence, to a fine not exceeding fifty pounds.

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- (c) shall, in the case of any other offence, be liable on summary conviction to imprisonment for a period not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such a fine.
- (2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

In this subsection, the expression " director ", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

- (3) Where a person is convicted of 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 purpose of interfering with any wireless telegraphy, 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 Postmaster General.
- (4) Except as otherwise expressly provided in this Act, no criminal proceedings for an offence under this Act shall be instituted in England, Wales or Northern Ireland except with the consent of the Postmaster General.
- (5) Section seventy-six of the Post Office Act, 1908 (which gives to the Postmaster General power to compound proceedings) shall extend to proceedings for an offence under this Act in connection with apparatus for wireless telegraphy not designed or adapted for emission (as opposed to reception).
- (6) Without prejudice to the right to bring separate proceedings for contraventions of this Act taking place on separate occasions, a person who is convicted of an offence under this Act consisting in the use of any station or apparatus, or in a failure or refusal to cause any licence or authority to be surrendered, shall, where the use, or failure or refusal continues after the conviction, be deemed to commit a separate offence in respect of every day on which the use, failure or refusal so continues.
- (7) Nothing in the preceding provisions of this section shall limit any right of any person to bring civil proceedings in respect of the doing or apprehended doing of anything rendered unlawful by any provision of this Act, and, without prejudice to the generality of the preceding words, compliance with the provisions of this Act contraventions of which are declared to be offences under this Act shall be enforceable by civil proceedings by the Crown for an injunction or for any other appropriate relief.

In the application of this subsection to Scotland, for the words " civil proceedings by the Crown for an injunction " there shall be substituted the words " civil proceedings by the Lord Advocate for an interdict ".

- (8) In this section, the expression " summary conviction ", in relation to Northern Ireland, means conviction subject to, and in accordance with, the Summary Jurisdiction Acts, and the expression " the Summary Jurisdiction Acts " means, in relation to Northern

Ireland, the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland), whether passed before or after the passing of this Act, amending that Act.

15 Entry and search of premises, etc.

- (1) If, in England, Wales or Northern Ireland, a justice of the peace, or, in Scotland, the sheriff, is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is being committed, and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified, he may grant a search warrant authorising any person or persons authorised in that behalf by the Postmaster General and named in the warrant, with or without any constables, to enter, at any time within one month from the date of the warrant, the premises specified in the information or, as the case may be, the vehicle, vessel or aircraft so specified and any premises upon which it may be, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft, and to examine and test any apparatus found on the premises, vessel, vehicle or aircraft.
- (2) If, in England, Wales or Northern Ireland, a justice of the peace, or, in Scotland, the sheriff, is satisfied upon an application supported by sworn evidence—
 - (a) that there is reasonable ground for believing that, on any specified premises or in any specified vessel, aircraft or vehicle, apparatus to which section ten of this Act applies is to be found which does not comply with the requirements applicable to it under regulations made under that section; and
 - (b) that it is necessary to enter those premises, or that vessel, aircraft or vehicle, for the purpose of obtaining such information as will enable the Postmaster General to decide whether or not to serve a notice under section eleven or section twelve of this Act; and
 - (c) that access to the premises, vessel, aircraft or vehicle for the purpose of obtaining such information as aforesaid has, within fourteen days before the date of the application to the justice or sheriff, been demanded by a person authorised in that behalf by the Postmaster General and producing sufficient documentary evidence of his identity and authority, but has been refused,

the justice or sheriff may issue a written authorisation under his hand empowering any person or persons authorised in that behalf by the Postmaster General and named in the authorisation, with or without any constables, to enter the premises or, as the case may be, the vessel, aircraft or vehicle and any premises on which it may be and to search the premises, vessel, aircraft or vehicle with a view to discovering whether any such apparatus as aforesaid is situate thereon or therein, and, if he finds or they find any such apparatus thereon, or therein, to examine and test it with a view to obtaining such information as aforesaid:

Provided that an authorisation shall not be issued under this subsection unless either—

- (i) it is shown to the justice or sheriff that the Postmaster General is satisfied that there is reasonable ground for believing 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 any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend; or
- (ii) it is shown to the justice or sheriff that not less than seven days' notice of the demand for access was served on the occupier of the premises, or, as the case may be, the person in possession or the person in charge of the vessel,

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aircraft or vehicle, and that the demand was made at a reasonable hour and was unreasonably refused.

- (3) Where under this section a person has a right to examine and test any apparatus on any premises or in any vessel, aircraft or vehicle, it shall be the duty of any person who is on the premises, or is in charge of, or in or in attendance on, the vessel, aircraft or vehicle, to give him any such assistance as he may reasonably require in the examination or testing of the apparatus.
- (4) Any person who—
- (a) obstructs any person in the exercise of the powers conferred on him under this section; or
 - (b) fails or refuses to give to any such person any assistance which he is under this section under a duty to give to him; or
 - (c) discloses, otherwise than for the purposes of this Act or of any report of proceedings thereunder, any information obtained by means of the exercise of powers under this Act, being information with regard to any manufacturing process or trade secret,

shall be guilty of an offence under this Act, and criminal proceedings for an offence under paragraph (c) of this subsection may be instituted without the consent of the Postmaster General.

16 Regulations and orders

- (1) Any Order in Council under this Act may be revoked or varied by a subsequent Order in Council.
- (2) The power to make orders conferred on the Postmaster General by section eight of this Act and any power conferred on him by any of the provisions of this Act to make regulations shall be exercisable by statutory instrument, and any statutory instrument made in the exercise of any of the said powers shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17 Financial provisions

- (1) Any expenses incurred for the purpose of this Act by the Postmaster General shall be defrayed out of moneys provided by Parliament, and any sums received by the Postmaster General under this Act, and any fines imposed for offences under this Act, shall be paid into the Exchequer.
- (2) Any expenses incurred under any provision of this Act by a welfare authority established under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland), 1946, shall be defrayed in like manner as the other expenses of that authority are, for the time being, defrayed.

18 Temporary continuation of Wireless Telegraphy Acts, 1904 to 1926, and transitional provisions

- (1) If the date appointed for the coming into operation of section one of this Act is later than the date on which the Wireless Telegraphy Acts, 1904 to 1926, are limited to expire apart from this Act, those Acts shall continue in force until the date so appointed.

- (2) On the expiry of the said Acts the same consequences shall ensue as would have ensued if the said Acts had been permanent Acts repealed by this Act as from the date of the expiry thereof:

Provided that any licence granted under the said Acts which is in force immediately before the date of the expiry thereof shall, as from that date, be deemed to be a wireless telegraphy licence duly granted under this Act and shall, with any necessary modifications, have effect accordingly.

19 Interpretation

- (1) In this Act, except where the context otherwise requires, the expression " wireless telegraphy " means the emitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electromagnetic energy of a frequency not exceeding three million megacycles a second, being energy which either—
- (a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not), or for the actuation or control of machinery or apparatus; or
 - (b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and references to stations for wireless telegraphy and apparatus for wireless telegraphy or wireless telegraphy apparatus shall be construed as references to stations and apparatus for the emitting or receiving as aforesaid of such electro-magnetic energy as aforesaid:

Provided that where—

- (i) a station or apparatus for wireless telegraphy cannot law fully be used without a wireless telegraphy licence or could not lawfully be used without such a licence but for regulations under section one of this Act; and
- (ii) any such electro-magnetic energy as aforesaid which is received by that station or apparatus serves for the conveying of messages, sound or visual images; and
- (iii) any apparatus is electrically coupled with that station or apparatus for the purpose of enabling any person to receive any of the said messages, sound or visual images,

the apparatus so coupled shall itself be deemed for the purposes of this Act to be apparatus for wireless telegraphy.

- (2) In this Act, the expression " station for wireless telegraphy " includes the wireless telegraphy apparatus of a ship or aircraft, and the expression " electric line " has the same meaning as in the Electric Lighting Act, 1882.
- (3) Any reference in this Act to the emission of electromagnetic energy, or to emission (as opposed to reception), shall be construed as including a reference to the deliberate reflection of electro-magnetic energy by means of any apparatus designed or specially adapted for that purpose, whether the reflection is continuous or intermittent.
- (4) In this Act, the expression " interference," in relation to wireless telegraphy, means the prejudicing by any emission or reflection of electro-magnetic energy of the fulfilment of the purposes of the telegraphy (either generally or in part, and, without prejudice

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to the generality of the preceding words, as respects all, or as respects any, of the recipients or intended recipients of any message, sound or visual image intended to be conveyed by the telegraphy), and the expression "interfere" shall be construed accordingly.

- (5) In considering for any of the purposes of this Act, whether, in any particular case, any interference with any wireless telegraphy caused or likely to be caused by the use of any apparatus, is or is not undue interference, regard shall be had to all the known circumstances of the case and the interference shall not be regarded as undue interference if so to regard it would unreasonably cause hardship to the person using or desiring to use the apparatus.
- (6) Any reference in this Act to the sending or the conveying of messages includes a reference to the making of any signal or the sending or conveying of any warning or information, and any reference to the reception of messages shall be construed accordingly.
- (7) In this Act, the expressions "ship" and "vessel" have the meanings respectively assigned to them by section seven hundred and forty-two of the Merchant Shipping Act, 1894.
- (8) References in this Act to apparatus on board a ship or vessel include references to apparatus on a kite or captive balloon flown from a ship or vessel.
- (9) Any notice required or authorised by any provision of this Act to be served on any person may be served by registered post.
- (10) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

20 Short title and extent

- (1) This Act may be cited as the Wireless Telegraphy Act, 1949.
- (2) It is hereby declared that this Act extends to Northern Ireland.
- (3) His Majesty may by Order in Council direct that all or any of the provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such adaptations and modifications, if any, as may be specified in the Order.