

Draft Order laid before Parliament under section 407(4) of the Communications Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No. XXX

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Pre-Consolidation Amendments) Order 2006

Made - - - - *2006*
in accordance with
Coming into force - - *Article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by section 407 of the Communications Act 2003(1);

A Bill has been presented to the House of Lords on 20th April 2006 in accordance with section 407(2) of that Act;

A draft of this Order has been laid before Parliament in accordance with section 407(4) of that Act and approved by a resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Wireless Telegraphy (Pre-Consolidation Amendments) Order 2006 and shall come into force immediately before the commencement of the Act resulting from the Wireless Telegraphy Bill introduced in the House of Lords on 20th April 2006.

Pre-consolidation amendments

2. The modifications of—

- (a) the enactments relating to the management of the radio spectrum; and
- (b) enactments referring to enactments falling within paragraph (a),

specified in the Schedule to this Order shall have effect.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory
Instrument: *The Wireless Telegraphy (Pre-Consolidation Amendments) Order 2006 No. 1391*

Date

Minister of State for Industry and the Regions
Department of Trade and Industry

SCHEDULE

Article 2

MODIFICATIONS

Wireless Telegraphy Act 1949 (c. 56)

1. The Wireless Telegraphy Act 1949(2) is amended as follows.
2. In section 14(7)(3)—
 - (a) after “any provision of this Act” insert “or section 7 of the Wireless Telegraphy Act 1967”(4);
 - (b) after “the provisions of this Act” insert “or section 7 of the Wireless Telegraphy Act 1967”.
3. The provisions capable of being extended to the Isle of Man or any of the Channel Islands under section 20(3) include section 1D of the Wireless Telegraphy Act 1949(5).

Telecommunications Act 1984 (c. 12)

4. In paragraph 3 of Schedule 3 to the Telecommunications Act 1984(6), after “the 1949 Act” insert “or the Marine, &c., Broadcasting (Offences) Act 1967”(7).

Wireless Telegraphy Act 1998 (c. 6)

5. For section 4(5)(b) of the Wireless Telegraphy Act 1998(8) substitute—

“(b) for the purpose of securing compliance with an international obligation of the United Kingdom (within the meaning of the Communications Act 2003).”.

Terminology

- 6.—(1) In the enactments falling within sub-paragraph (2) (except where otherwise provided) the following have the same meaning as in the Communications Act 2003—
 - (a) “broadcast”;
 - (b) “frequency”;
 - (c) “information”;
 - (d) “international obligation of the United Kingdom”.
- (2) The enactments are—
 - (a) the Wireless Telegraphy Act 1949;
 - (b) Part 2 of the Wireless Telegraphy Act 1967;
 - (c) Part 6 of the Telecommunications Act 1984.

(2) 1949 c.54 (12, 13 & 14 Geo 6)

(3) Section 14(7) of the Wireless Telegraphy Act 1949 (c.56) was amended by the Communications Act 2003, Schedule 17, paragraph 14(8).

(4) 1967 c.72; section 7 was amended by the Communications Act 2003, section 182(7), Schedule 17, paragraph 37 and Schedule 19(1).

(5) Section 1D of the Wireless Telegraphy Act 1949 was inserted by regulations 4 of the Telecommunications (Licensing) Regulations 1997, S.I. 1997/2930 and was amended by the Communications Act 2003, Schedule 17, paragraph 8.

(6) Paragraph 3 of Schedule 3 to the Telecommunications Act 1984 (c.12) was amended by the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), Schedule 9, paragraph 92, the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 48(4) and the Criminal Justice (Northern Ireland) Order 1994, S.I. 1994/2795 (N.I. 15), Schedule 2, paragraph 10.

(7) 1967 c.41

(8) 1998 c.6; section 4(5) was amended by the Communications Act 2003, Schedule 17, paragraphs 145 and 148(3).

Disclosure of information

7.—(1) A reference in a provision falling within sub-paragraph (3) to the Telecommunications Act 1984 has effect as if it were a reference to the provisions of that Act, other than such provisions of that Act as fall to be repealed and re-enacted by the Act resulting from the Wireless Telegraphy Bill introduced in the House of Lords on 20th April 2006.

(2) A reference in a provision falling within sub-paragraph (3) to the Communications Act 2003 has effect as if it were a reference to the provisions of that Act, other than such provisions of that Act as fall to be repealed and re-enacted by the Act resulting from that Bill.

(3) The provisions⁽⁹⁾ are—

- (a) section 174 of the Water Act 1989⁽¹⁰⁾;
- (b) Part 2 of Schedule 15 to the Water Industry Act 1991⁽¹¹⁾;
- (c) Part 2 of Schedule 24 to the Water Resources Act 1991⁽¹²⁾;
- (d) section 145(3) of the Railways Act 1993⁽¹³⁾;
- (e) section 235(3) of the Greater London Authority Act 1999⁽¹⁴⁾;
- (f) paragraph 3 of Schedule 7 to the Postal Services Act 2000⁽¹⁵⁾;
- (g) section 105(6) of the Utilities Act 2000⁽¹⁶⁾;
- (h) paragraph 3 of Schedule 9 to the Transport Act 2000⁽¹⁷⁾;
- (i) Schedule 15 to the Enterprise Act 2002⁽¹⁸⁾;
- (j) Article 63(6) of the Energy (Northern Ireland) Order 2003⁽¹⁹⁾.

(4) The reference in section 101(3)(q) of the Telecommunications Act 1984 to the provisions of the Communications Act 2003 which are enactments relating to the management of the radio spectrum within the meaning of that Act has effect as if it were a reference to the provisions of that Act that fall to be repealed and re-enacted by the Act resulting from that Bill.

Orders and regulations made by the Secretary of State

8. Every power of the Secretary of State to make an order or regulations under the Wireless Telegraphy Act 1949, the Marine, &c., Broadcasting (Offences) Act 1967 or Part 6 of the Telecommunications Act 1984 includes power—

- (a) to make different provision for different cases (including different provision in respect of different areas);
- (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.

⁽⁹⁾ The provisions set out in paragraphs (a) to (k) have been amended, for relevant purposes, by the Communications Act 2003, Schedule 17, paragraphs 96(3), 112(3), 115(3), 121(b), 127(3), 141(b), 157(3), 162(3), 163(3) 166(3)(b) and 174(7).

⁽¹⁰⁾ 1989 c.15

⁽¹¹⁾ 1991 c.56

⁽¹²⁾ 1991 c.57

⁽¹³⁾ 1993 c.43

⁽¹⁴⁾ 1999 c.29

⁽¹⁵⁾ 2000 c.26

⁽¹⁶⁾ 2000 c.27

⁽¹⁷⁾ 2000 c.38

⁽¹⁸⁾ 2002 c.40

⁽¹⁹⁾ S.I. 2003/419 (N.I.6)

Orders in Council

9. Paragraph 8 of this Schedule applies to the power to make an Order in Council under each of—
- (a) section 20(3) of the Wireless Telegraphy Act 1949,
 - (b) section 10(1) of the Marine, &c., Broadcasting (Offences) Act 1967,
 - (c) section 15(6) of the Wireless Telegraphy Act 1967 (as it relates to Part 2 of that Act),
 - (d) section 108 of the Telecommunications Act 1984 (as it relates to Part 6 of that Act), and
 - (e) section 9(3) of the Wireless Telegraphy Act 1998,

as it applies to any power of the Secretary of State to make an order under the enactments mentioned in paragraph 8, but as if references in that paragraph to the Secretary of State were references to Her Majesty in Council.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to various enactments relating to the management of the radio spectrum, and enactments referring to enactments relating to the management of the radio spectrum. The enactments relating to the management of the radio spectrum are the Wireless Telegraphy Act 1949 (the “1949 Act”), the Marine, &c., Broadcasting (Offences) Act 1967, the Wireless Telegraphy Act 1967 (except Part 1), Part 6 of the Telecommunications Act 1984, the Wireless Telegraphy Act 1998 (the “1998 Act”), Chapter 2 of Part 2 of the Communications Act 2003 (the “2003 Act”) and other provisions of the 2003 Act so far as relating to any of the enactments mentioned above.

Article 2 gives effect to the amendments set out in the Schedule to the Order. The amendments will take effect immediately before the commencement of the Act resulting from the Wireless Telegraphy Bill introduced in the House of Lords on 20th April 2006.

Paragraph 2 of the Schedule modifies section 14(7) of the 1949 Act so that it has effect in relation to conduct rendered unlawful by section 7 Wireless Telegraphy Act 1967.

Paragraph 3 of the Schedule modifies section 20(3) of the 1949 Act so that it applies to the provisions of section 1D of the 1949 Act (procedure for granting wireless telegraphy licences). This secures that section 1D of the 1949 Act is treated in the same way as similar provisions for grants of recognised spectrum access.

Paragraph 4 of the Schedule amends paragraph 3 of Schedule 3 to the Telecommunications Act 1984 so that the powers of the court under section 143 Powers of Criminal Courts (Sentencing) Act 2000 (and corresponding provisions for Scotland and Northern Ireland) are disapplied as regards offences under the Marine, &c., Broadcasting (Offences) Act 1967. This corresponds to the disapplication of such powers in relation to offences under the 1949 Act.

Paragraph 5 of the Schedule amends section 4(5) of the 1998 Act so as to provide for revocation or variation of wireless telegraphy licences where it is necessary or expedient to do so for the purpose of complying with international obligations of the United Kingdom as defined by section 405 of the 2003 Act. To the extent that the definition in section 405 of the 2003 Act is wider than the description in section 4(5) of the 1998 Act, the amendment widens the circumstances in which a licence may be

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revoked or varied (in addition to the provision about revocation and variation that may be contained in the licence itself).

Paragraph 6 of the Schedule modifies references to “broadcast”, “frequency”, “information” and “international obligation of the United Kingdom” as they appear in various enactments.

The effect of the modifications made by paragraph 7(1) and (2) of the Schedule is to make it unnecessary to have consequential amendments of the provisions listed in paragraph 7(3) to reflect the repeals and re-enactments by the Wireless Telegraphy Bill. Paragraph 7(4) modifies the exclusion in section 101(3)(q) of the Telecommunications Act 1984 so that it refers to the same elements of the 2003 Act as the provisions in paragraph 7(3) (as modified by paragraph 7(2)).

The effect of paragraph 8 of the Schedule is that a power like that in section 402(3) of the 2003 Act is included in each order- and regulation-making power of the Secretary of State to which section 402(3) does not apply.

Paragraph 9 of the Schedule makes provision like that in section 411(8) of the 2003 Act in relation to the powers to make an Order in Council listed in paragraph 9.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.