



British Telecommunications Act 1981

1981 CHAPTER 38

PART I

NEW CORPORATION FOR THE PROVISION OF TELECOMMUNICATION AND DATA PROCESSING SERVICES

Approval of apparatus used for telecommunication

16 Approval of apparatus which is to be connected to a telecommunication system run by the Corporation

- (1) Standards to which subscriber's apparatus of a description specified therein must conform if it is, or is to be, connected (either directly or indirectly) to a telecommunication system run by the Corporation, being a system so specified or of a description so specified, may be approved—

- (a) after consultation with the Corporation, by the Secretary of State; or
- (b) after such consultation as aforesaid, by a person or body appointed for the purpose by the Secretary of State;

and an approval under this subsection may specify conditions which must be complied with in relation to any apparatus or its connection or use if it is to be regarded as conforming to the standard to which the approval relates.

- (2) Where, in the case of any subscriber's apparatus, a standard is not for the time being approved under subsection (1) in relation to any telecommunication system run by the Corporation, the apparatus must be approved—

- (a) after consultation with the Corporation, by the Secretary of State;
- (b) after such consultation as aforesaid, by a person or body appointed for the purpose by the Secretary of State; or
- (c) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Corporation,

if it is, or is to be, connected (either directly or indirectly) to that system; and an approval under this subsection may be subject to compliance with any conditions as to the apparatus or its connection or use specified in the approval.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) Any power conferred by subsection (1) or (2) to issue an approval includes power, exercisable in the like manner and subject to the like conditions or limitations, to vary or withdraw any approval issued in the exercise of that power.
- (4) If it appears to the Secretary of State that the Corporation is showing undue preference to, or is exercising undue discrimination against, any person or persons of any class or description as respects—
- (a) the connection to any telecommunication system run by the Corporation of subscriber's apparatus which is approved for the purposes of this section; or
 - (b) the charges or other terms and conditions applicable to the connection to any such system of any such apparatus,
- he may, after consultation with the Corporation, give it such directions as appear to him to be requisite to secure that it ceases to do so.
- (5) Notice of an approval or the variation or withdrawal of an approval under subsection (1) shall be published in such manner as appears to the Secretary of State to be appropriate.
- (6) For the purposes of a standard approved under subsection (1), the definition of a description of subscriber's apparatus may be framed by reference to any circumstances whatever.
- (7) In this section and section 21 " subscriber's apparatus " means apparatus owned by or supplied to a person other than the Corporation; and references to subscriber's apparatus which, in relation to any telecommunication system run by the Corporation, is approved for the purposes of this section are references to such apparatus which either—
- (a) conforms to a standard approved under subsection (1); or
 - (b) is itself approved under subsection (2),
- in relation to that system.
- (8) For the purposes of this Part, any apparatus a function of which is—
- (a) to emit sounds or signals with a view to their being conveyed by a telecommunication system; or
 - (b) to receive sounds or signals which have been so conveyed,
- shall be treated as connected to a telecommunication system at any time if, at that time, sounds or signals emitted by it are being conveyed by that system or, as the case may be, it is receiving sounds or signals which have been so conveyed; and references to apparatus which is to be, or is capable of being, connected to a telecommunication system shall be construed accordingly.

17 Information etc. to be marked on or to accompany apparatus

- (1) Where it appears to the Secretary of State expedient that apparatus which is capable of being connected (either directly or indirectly) to a telecommunication system should be marked with or accompanied by any information or instruction relating to the apparatus or its connection or use, the Secretary of State may by order impose requirements for securing that the apparatus is so marked or accompanied, and regulate or prohibit the supply of such apparatus with respect to which the requirements are not complied with ; and the requirements may extend to the form and manner in which the information or instruction is to be given.

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- (2) Where an order under this section is in force with respect to apparatus of any description, any person who, in the course of any trade or business, supplies or offers to supply apparatus of that description in contravention of the order shall, subject to section 19, be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum ;
 - (b) on conviction on indictment, to a fine.
- (3) An order under this section may make different provision for different circumstances and may, in the case of apparatus supplied in circumstances where the information or instruction required by the order would not be conveyed until after delivery, require the whole or part thereof to be also displayed near the apparatus.
- (4) Orders under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) For the purposes of this section a person exposing apparatus for supply or having apparatus in his possession for supply shall be deemed to offer to supply it.
- (6) In this section and section 18 "supply" shall be construed in accordance with section 9 of the Consumer Safety Act 1978 and, in the case of the Corporation, shall be construed as including supply in pursuance of a scheme made under section 21.

18 Information etc. to be given in advertisements

- (1) Where it appears to the Secretary of State expedient that any description of advertisements of apparatus which is capable of being connected (either directly or indirectly) to a telecommunication system should contain or refer to any information relating to the apparatus or its connection or use, the Secretary of State may by order impose requirements as to the inclusion of that information, or an indication of the means by which it may be obtained, in such description of advertisements of the apparatus as may be specified in the order.
- (2) Where an advertisement of any apparatus to be supplied in the course of any trade or business fails to comply with any requirement imposed under this section, any person who publishes the advertisement shall, subject to section 19, be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (3) An order under this section may specify the form and manner in which any information or indication required by the order is to be included in advertisements of any description and may make different provision for different circumstances.
- (4) Orders under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section "advertisement" includes a catalogue, a circular and a price list.

19 Offences due to default of third person

- (1) Where the commission by any person of an offence under section 17 or 18 is due to the act or default of some other person, that other person shall be guilty of the offence ; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

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- (2) In any proceedings for an offence under section 17 or 18 it shall, subject to subsection (3), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (3) Where the defence provided by subsection (2) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (4) In any proceedings for an offence under section 18 it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under that section.

20 Enforcement provisions

- (1) A relevant authority shall have power to purchase apparatus, and to authorise any of their officers to purchase apparatus on their behalf, for the purpose of ascertaining whether sections 17 and 18 and orders made under those sections (in this section referred to as " the relevant provisions") are being complied with.
- (2) Every local weights and measures authority in Great Britain shall have power to enforce the relevant provisions within their area; but nothing in this subsection shall be construed as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.
- (3) In this section " relevant authority " means—
 - (a) in relation to Great Britain, the Secretary of State or a local weights and measures authority on whom a power to enforce the relevant provisions is conferred by subsection (2);
 - (b) in relation to Northern Ireland, the Department of Commerce for Northern Ireland ; and
 - (c) in relation to the Isle of Man, the Board of Consumer Affairs.