



# Telecommunications Act 1984

## 1984 CHAPTER 12

### PART II

#### PROVISION OF TELECOMMUNICATION SERVICES

##### *Licensing etc. of telecommunication systems*

#### **5 Prohibition on running unlicensed systems**

- (1) Subject to the provisions of this section and section 6 below, a person who runs a telecommunication system within the United Kingdom shall be guilty of an offence unless he is authorised to run the system by a licence granted under section 7 below.
- (2) Subject to the provisions of this section, a person who runs within the United Kingdom a telecommunication system which he is authorised to run by a licence granted under section 7 below shall be guilty of an offence if—
  - (a) there is connected to the system—
    - (i) any other telecommunication system; or
    - (ii) any apparatus,which is not authorised by the licence to be so connected ; or
  - (b) there are provided by means of the system any telecommunication services which are not authorised by the licence to be so provided.
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) Where the commission by any person of an offence under this section 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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- (5) In any proceedings for an offence under this section it shall, subject to subsection (6) below, 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.
- (6) Where the defence provided by subsection (5) above 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.
- (7) No proceedings shall be instituted in England and Wales or Northern Ireland in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

## **6 Exceptions to section 5**

- (1) Section 5(1) above is not contravened by the running by a broadcasting authority of a telecommunication system in the case of which every conveyance made by it is either—
  - (a) a transmission, by wireless telegraphy, from a transmitting station for general reception of sounds, visual images or such signals as are mentioned in paragraph (c) of section 4(1) above; or
  - (b) a conveyance within a single set of premises of sounds, visual images or such signals which are to be or have been so transmitted.
- (2) Section 5(1) above is not contravened by—
  - (a) the running of a telecommunication system in the case of which the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of being received or perceived by the eye and without more;
  - (b) the running by a person of a telecommunication system which is not connected to another telecommunication system and in the case of which all the apparatus comprised therein is situated either—
    - (i) on a single set of premises in single occupation ; or
    - (ii) in a vehicle, vessel, aircraft or hovercraft or in two or more vehicles, vessels, aircraft or hovercraft mechanically coupled together; or
  - (c) the running by a single individual of a telecommunication system which is not connected to another telecommunication system and in the case of which—
    - (i) all the apparatus comprised therein is under his control; and
    - (ii) everything conveyed by it that falls within paragraphs (a) to (d) of section 4(1) above is conveyed solely for domestic purposes of his ;
 and references in paragraphs (b) and (c) above to another telecommunication system do not include references to such a system as is mentioned in subsection (1) above (whether run by a broadcasting authority or by any other person).
- (3) In the case of a business carried on by a person, section 5(1) above is not contravened by the running, for the purposes of that business, of a telecommunication system which is not connected to another telecommunication system and with respect to which the conditions specified in subsection (4) below are satisfied.
- (4) The said conditions are-

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- (a) that no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system ;
- (b) that nothing falling within paragraphs (a) to (d) of section 4(1) above is conveyed by the system by way of rendering a service to another;
- (c) that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any employees of his engaged in the conduct thereof ;
- (d) that in so far as such signals as are mentioned in paragraph (c) of section 4(1) above are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on the business, any employees of his engaged in the conduct thereof or things used in the course of the business and controlled by him ; and
- (e) that, in so far as such signals as are mentioned in paragraph (d) of section 4(1) above are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of the business.

(5) In this section—

" broadcasting authority " means a person licensed under the Wireless Telegraphy Act 1949 to broadcast programmes for general reception;

" business " includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate;

" vessel" means a vessel of any description used in navigation ;

" wireless telegraphy " has the same meaning as in the said Act of 1949.

## 7 Power to license systems

(1) A licence may be granted—

- (a) by the Secretary of State after consultation with the Director; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director,

for the running of any such telecommunication system as is specified in the licence or is of a description so specified.

(2) A licence granted under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence.

(3) A licence granted under this section may be granted either to all persons, to persons of a class or to a particular person.

(4) A licence granted under this section may authorise—

- (a) the connection to any telecommunication system to which the licence relates of—
  - (i) any other telecommunication system specified in the licence or of a description so specified ; and
  - (ii) any apparatus so specified or of a description so specified; and
- (b) the provision by means of any telecommunication system to which the licence relates of any telecommunication services specified in the licence or of a description so specified.

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- (5) A licence granted under this section may include—
- (a) such conditions (whether relating to the running of a telecommunication system to which the licence relates or otherwise) as appear to the Secretary of State or the Director to be requisite or expedient having regard to the duties imposed on him by section 3 above ;
  - (b) conditions requiring the rendering to the Secretary of State of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and
  - (c) conditions requiring any person who is authorised by the licence to run a telecommunication system to furnish to the Director, in such manner and at such times as he may reasonably require, such documents, accounts, estimates, returns or other information as he may require for the purpose of exercising the functions assigned or transferred to him by or under this Part or Part III of this Act.
- (6) Without prejudice to the generality of paragraph (a) of subsection (5) above, conditions included by virtue of that paragraph in a licence granted under this section to a particular person may require that person—
- (a) to comply with any direction given by the Director as to such matters as are specified in the licence or are of a description so specified;
  - (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified ; and
  - (c) to refer for determination by the Director such questions arising under the licence as are specified in the licence or are of a description so specified.
- (7) A licence granted under this section otherwise than to a particular person shall be published in such manner as the Secretary of State or the Director considers appropriate for bringing it to the attention of the persons for whose benefit it will enure.
- (8) A copy of every licence granted under this section by the Secretary of State shall be sent to the Director.
- (9) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.
- (10) Neither the requirement to consult with the Director imposed by subsection (1)(a) above nor sections 8(5) and 10(6) below shall apply to the granting by the Secretary of State of the licence or licences which, having regard to the provisions of this Act, require to be granted (whether to British Telecommunications or to any other person) before the appointed day.
- (11) Where a licence granted under this section to a particular person includes a provision requiring that person to run any telecommunication system to which the licence relates through the agency of some other person, that other person, as well as the first mentioned person, shall be taken for the purposes of this section and the following provisions of this Part to be authorised by that licence to run that system.

## **8 Special provisions applicable to certain licences**

- (1) This section applies to any licence granted under section 7 above to a particular person which includes conditions requiring that person—

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- (a) to provide such telecommunication services as are specified in the licence or are of a description so specified;
  - (b) to connect to any telecommunication system to which the licence relates, or permit the connection to any such system of, such other telecommunication systems and such apparatus as are specified in the licence or are of a description so specified;
  - (c) to permit the provision by means of any telecommunication system to which the licence relates of such services as are specified in the licence or are of a description so specified;
  - (d) not to show undue preference to, or to exercise undue discrimination against, particular persons or persons of any class or description (including, in particular, persons in rural areas) as respects any service provided, connection made or permission given in pursuance of such conditions as are mentioned in the foregoing paragraphs (whether in respect of the charges or other terms or conditions applied or otherwise); and
  - (e) to publish, in such manner and at such times as are specified in the licence, a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions that are to be applicable to such services so provided, such connections so made and such permissions so given as are specified in the licence or are of a description so specified.
- (2) Where a licence granted under section 7 above to a particular person includes a condition requiring that person to provide such directory information services to which this subsection applies as are specified in the licence or are of a description so specified, subsection (1) above shall have effect as if the conditions there mentioned included a condition requiring that person to provide without charge for subscribers who are blind or otherwise disabled such directory information services to which this subsection applies as are appropriate to meet the needs of those subscribers and are specified in the licence or are of a description so specified.
- (3) Subsection (2) above applies to any directory information service which is provided for the purpose of facilitating the use of a voice telephony service and in that subsection " blind or otherwise disabled " means so blind or otherwise disabled as to be unable to use a telephone directory.
- (4) It is immaterial for the purposes of subsections (1) and (2) above whether the person to whom the licence is granted is required to refer for determination by the Director such questions arising under the conditions mentioned in those subsections as are specified in the licence or are of a description so specified.
- (5) Before granting a licence to which this section applies, the Secretary of State or the Director shall give notice—
- (a) stating that he proposes to grant the licence and setting out its effect;
  - (b) stating the reasons why he proposes to grant the licence; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.

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- (6) A notice under subsection (5) above shall be given by publication in such manner as the Secretary of State or the Director considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

## **9 Public telecommunication systems**

- (1) The Secretary of State may by order designate as a public telecommunication system any telecommunication system the running of which is authorised by a licence to which section 8 above applies; and any reference in this Act to a public telecommunication system is a reference to a telecommunication system which is so designated and the running of which is so authorised.
- (2) An order under subsection (1) above shall not come into operation until after the end of the period of 28 days beginning with—
- (a) the day on which copies of the order, and of the licence to which section 8 above applies, are laid before each House of Parliament; or
  - (b) if such copies are so laid on different days, the last of those days.
- (3) In this Act " public telecommunications operator " means a person authorised by a licence to which section 8 above applies to run a public telecommunication system.
- (4) In any case where it appears to the Secretary of State that it is expedient for transitional provision to be made in connection with a telecommunication system ceasing to be a public telecommunication system, or a person ceasing to be a public telecommunications operator, the Secretary of State may make a scheme giving effect to such transitional provision as he thinks fit.

## **10 The telecommunications code**

- (1) Subject to the following provisions of this section, the code (to be known as " the telecommunications code") which is contained in Schedule 2 to this Act shall have effect—
- (a) where it is applied to a particular person by a licence granted by the Secretary of State under section 7 above authorising that person to run a telecommunication system; and
  - (b) where the Secretary of State or a Northern Ireland department is running or is proposing to run a telecommunication system.
- (2) The telecommunications code shall not be applied to a person authorised by a licence under section 7 above to run a telecommunication system unless—
- (a) that licence is a licence to which section 8 above applies; or
  - (b) it appears to the Secretary of State—
    - (i) that the running of the system will benefit the public; and
    - (ii) that it is not practicable for the system to be run without the application of that code to that person.
- (3) Where the telecommunications code is applied to any person by a licence under section 7 above it shall have effect subject to such exceptions and conditions as may be included in the licence for the purpose of qualifying the rights exercisable by that person by virtue of the code.

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- (4) Without prejudice to the generality of subsection (3) above, the exceptions and conditions there mentioned shall include such exceptions and conditions as appear to the Secretary of State to be requisite or expedient for the purpose of securing—
- (a) that the physical environment is protected and, in particular, that the natural beauty and amenity of the countryside is conserved;
  - (b) that there is no greater damage to streets or interference with traffic than is reasonably necessary;
  - (c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code ;

and any condition falling within this subsection may impose on the person to whom the code is applied a requirement to comply with directions given in a manner specified in the condition and by a person so specified or of a description so specified.

- (5) A licence under section 7 above which applies the telecommunications code to any person in relation to any part or locality of the United Kingdom shall include a condition requiring that person to cause copies of—
- (a) the exceptions and conditions subject to which the telecommunications code has effect as so applied ; and
  - (b) every direction given in a manner specified in any such condition by a person so specified or of a description so specified,

to be open for inspection by members of the public free of charge at such premises in that part or locality as are specified in the licence or are of a description so specified.

- (6) Before granting under section 7 above a licence which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, the Secretary of State shall publish a notice—
- (a) stating that he proposes to apply the code to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which he proposes that the code should have effect as so applied;
  - (b) stating the reasons why he proposes to apply the code to that person in relation to that part or locality and why he proposes that the code as so applied should have effect subject to those exceptions and conditions ; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed application of the code to that person in relation to that part or locality and with respect to the proposed exceptions and conditions may be made,

and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.

- (7) If the Secretary of State, on reconsidering in pursuance of subsection (6) above any proposals specified in a notice under that subsection, grants a licence under section 7 above applying the telecommunications code to any person in relation to any part or locality of the United Kingdom, he shall on granting that licence publish a further notice—
- (a) stating that the code has been applied to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which the code has effect as so applied ; and
  - (b) stating the reasons why the code has been applied to that person in relation to that part or locality and why the code as so applied has effect subject to those exceptions and conditions.

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- (8) Where the Secretary of State has granted a licence under section 7 above which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, he may—
- (a) with the consent of that person ; or
  - (b) if it appears to him requisite or expedient to do so for the purpose mentioned in subsection (4) above,
- modify the exceptions and conditions subject to which the code has effect as so applied.
- (9) Before modifying the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, the Secretary of State shall publish a notice—
- (a) stating that he proposes to make the modifications and setting out their effect;
  - (b) stating the reasons why he proposes to make the modifications; and
  - (c) specifying the time (not being less than 23 days from the date of publication of this notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (10) If the Secretary of State, on reconsidering in pursuance of subsection (9) above any proposals specified in a notice under that subsection, modifies the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, he shall on making the modifications publish a further notice—
- (a) stating that the modifications have been made and setting out their effect; and
  - (b) stating the reasons why the modifications have been made.
- (11) A notice under this section shall be published in such manner as the Secretary of State considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

## **11 Provisions supplementary to section 10**

- (1) Without prejudice to section 10(3) above, in the application of the telecommunications code in relation to any place in Northern Ireland the words from " and accordingly " onwards in sub-paragraph (1) of paragraph 9 (which relate to the application of the street works code in the Public Utilities Street Works Act 1950) shall be omitted; but the Secretary of State may by order apply paragraphs 1 to 6 of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 (execution of works affecting roads, bridges, sewers and pipes), with such modifications as may be specified in the order, to the exercise in Northern Ireland of any right conferred by or in accordance with that code to do one or more of the things mentioned in that sub-paragraph.
- (2) Without prejudice to the generality of subsection (1) above, an order under that subsection may contain provisions creating an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- (3) The Secretary of State may from time to time by order provide that the telecommunications code shall have effect for all purposes as if an amount specified in the order were substituted for the amount specified, or for the time being having



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effect as if specified, in sub-paragraph (3) of paragraph 16 of the code as the minimum amount of compensation payable under that paragraph ; and an order under this subsection may contain such transitional provisions as the Secretary of State considers appropriate.

- (4) In any case where it appears to the Secretary of State that it is expedient for transitional provision to be made in connection with the telecommunications code ceasing to apply to any person by reason of the expiry or revocation of a person's licence under section 7 above, the Secretary of State may make a scheme giving effect to such transitional provision as the Secretary of State thinks fit.
- (5) Without prejudice to the generality of subsection (4) above, a scheme under that subsection may—
  - (a) impose obligations on a person to whom the telecommunications code has ceased to apply as mentioned in subsection (4) above to remove anything installed in pursuance of any right conferred by or in accordance with the telecommunications code, to restore land to its condition before anything was done in pursuance of any such right or to pay the expenses of any such removal or restoration;
  - (b) provide for those obligations to be enforceable in such manner (otherwise than by criminal penalties) and by such persons as may be specified in the scheme;
  - (c) authorise the retention of apparatus on any land pending the grant of a licence under section 7 above authorising the running by any person of a telecommunication system for the purposes of which that apparatus may be used;
  - (d) provide for the purposes of any provision contained in the scheme by virtue of paragraph (a), (b) or (c) above for such questions arising under the scheme as are specified in the scheme, or are of a description so specified, to be referred to, and determined by, the Director.