



Telecommunications Act 1984

1984 CHAPTER 12

PART VI

PROVISIONS RELATING TO WIRELESS TELEGRAPHY

Amendment and enforcement of Wireless Telegraphy Acts

F174

Textual Amendments

F1 S. 74 repealed (18.6.1998) by 1998 c. 6, ss. 7, 10(2), Sch. 2 Pt. 1

75 Alteration of penalties and mode of trial for certain offences under the 1949 Act.

- (1) The following offences under the 1949 Act shall be triable on indictment as well as summarily, that is to say—
- (a) any offence under section 5(a) of that Act (sending false or misleading messages likely to prejudice the efficiency of any safety of life service, etc.); and
 - (b) any offence under section 13 of that Act (using any apparatus for the purpose of interfering with wireless telegraphy).
- (2) Schedule 3 to this Act shall have effect for the purpose of—
- (a) incorporating the amendment made by subsection (1) above and certain other amendments made as respects Great Britain by the ^{M1}Criminal Justice Act 1982 in the text of section 14 of the 1949 Act (which gives the penalties for offences under that Act) as that section has effect both in Great Britain and in Northern Ireland; and
 - (b) making certain other amendments of that section as it so has effect; and for other connected purposes.

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- (3) Nothing in this section or in any provision of Schedule 3 to this Act—
- (a) shall affect the mode of trial in proceedings for an offence commenced before the date on which this section comes into force; or
 - (b) shall render a person liable in respect of an offence committed before that date to a punishment more severe than the punishment applicable in the case of that offence immediately before that date;
- but except as provided above in this subsection the provisions of section 14 of the 1949 Act, as amended by Schedule 3 to this Act and by section 82 below, shall have effect in relation to any conviction on or after that date of an offence under that Act.

Marginal Citations

M1 1982 c. 48.

76 Arrest without warrant for certain offences under the 1949 Act.

- (1) This section applies to—
- (a) any indictable offence under the 1949 Act; and
 - (b) any offence under section 1(1) of that Act other than one consisting 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).
- (2) A constable may arrest without warrant a person who has committed, or whom the constable with reasonable cause suspects to have committed, an offence to which this section applies, if the name and address of that person are unknown to, and cannot be ascertained by, the constable or the constable has reasonable grounds for doubting—
- (a) whether a name and address furnished by that person as his name and address are his real name and address; or
 - (b) whether that person will be at an address furnished by him for a sufficiently long period for it to be possible to serve him with a summons.
- (3) The preceding provisions of this section do not apply to Scotland.
- (4) This section shall not prejudice any power of arrest conferred by law apart from this section.

77 Substitution of new section for section 7 of the 1967 Act.

- (1) The following section shall be substituted for section 7 of the 1967 Act (restriction on manufacture or importation of certain apparatus)—

“7 Restriction on dealings in and custody of certain apparatus.

- (1) This section applies to wireless telegraphy apparatus and to any apparatus designed or adapted for use in connection with wireless telegraphy apparatus.
- (2) Where it appears to the Secretary of State to be expedient to do so for the purpose of preventing or reducing the risk of interference with wireless telegraphy, he may make an order applying restrictions under this section in

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relation to apparatus to which this section applies of any class or description specified in the order.

- (3) Any of the following actions in relation to any such apparatus is subject to restriction under this section—
 - (a) manufacture (whether or not for sale);
 - (b) selling or offering for sale, letting on hire or offering to let on hire, or indicating (whether by display of the apparatus or by any form of advertisement) one's willingness to sell or let on hire;
 - (c) having in one's custody or control; and
 - (d) importation.
- (4) An order under this section shall specify such of the actions subject to restriction under this section as are restricted by the order in the case of apparatus of any class or description specified in the order.
- (5) Any action for the time being restricted by an order under this section in the case of any apparatus is prohibited by this section—
 - (a) save with the authority of the Secretary of State and subject to compliance with any terms and conditions attached by the Secretary of State to that authority; or
 - (b) in the case of action within subsection (3)(c) above, save as mentioned in paragraph (a) above or as otherwise authorised by law apart from this section.
- (6) An authority given by the Secretary of State for the purposes of this section in the case of apparatus of any class or description specified in an order under this section may be limited—
 - (a) to such of the actions restricted by the order; and
 - (b) to such subsidiary class or description of apparatus within the class or description specified in the order;as may be specified in the authority.
- (7) Any terms or conditions attached by the Secretary of State to any authority under this section for manufacture or importation may relate to a period after, as well as to the time of, or a period before, the manufacture or importation.
- (8) The Secretary of State's authority may be given, and any terms or conditions may be attached to it, either generally by means of a notice in the London Gazette or by an instrument in writing issued to each person authorised to do, in relation to apparatus of any class or description to which an order under this section relates, anything for the time being restricted by the order; and any such notice published in the London Gazette shall also be published in the Edinburgh Gazette and the Belfast Gazette.
- (9) The Secretary of State shall not make any order under this section or give any authority for the purposes of this section or attach any term or condition to any such authority, unless the Secretary of State is satisfied that the order, authority, term or condition in question is compatible with the international obligations of the United Kingdom; and where any statutory instrument containing such an order or any notice or instrument in writing giving such an authority or attaching any term or condition to such an authority contains a statement that the Secretary of State is so satisfied, that statement shall be evidence (and, in Scotland, sufficient evidence) of that fact.

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(10) Where the importation of apparatus of any class or description to which this section applies is for the time being restricted by an order under this section, a person commissioned by the Commissioners of Customs and Excise may require any person having custody or control of any apparatus of that class or description which is being or has been imported to furnish proof that the importation of the apparatus is or was not unlawful by virtue of this section; and if such proof is not furnished to the satisfaction of those Commissioners the apparatus shall be deemed, unless the contrary is proved, to be prohibited goods, and shall be liable to forfeiture under the Customs and Excise Management Act 1979.

(11) Any person who—

- (a) takes any action within subsection (3)(a) or (b) above in relation to any apparatus in contravention of subsection (5) above; or
- (b) without reasonable excuse has any apparatus in his custody or control in contravention of that subsection; or
- (c) contravenes or fails to comply with any terms or conditions attached to any authority given by the Secretary of State for the purposes of this section (whatever the action to which that authority relates);

shall, without prejudice to any liability to a penalty which he may have incurred under the Act of 1979 mentioned above, be guilty of an offence under the principal Act.

(12) For the avoidance of doubt, it is hereby declared that in this section “manufacture” includes construction by any method and the assembly of component parts.”.

(2) Any order made under section 7 of the 1967 Act which is in force immediately before this section comes into force shall have effect—

- (a) as if made under the new section 7 substituted by subsection (1) above; and
- (b) as if it restricted, in the case of wireless telegraphy apparatus of any class or description specified in the order, the actions mentioned in subsection (3)(a) and (d) of the new section;

(and any such order may accordingly be varied or revoked by an order made under the new section).

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Textual Amendments

F2 S. 78 repealed (28.10.1992) by S.I. 1992/2372, reg. 2(1)

79 Seizure of apparatus and other property used in committing certain offences under the 1949 Act.

(1) This section applies to—

- (a) any indictable offence under the 1949 Act;
- (b) any offence under section 1(1) of that Act other than one consisting in the installation or use, otherwise than under and in accordance with a wireless

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- telegraphy licence, of any apparatus not designed or adapted for emission (as opposed to reception);
- [^{F3}(bza) any offence under section 1A of that Act other than one where the relevant contravention of section 1 of that Act would constitute an offence so consisting;]
- [^{F4}(ba) any offence under section 5(b) of that Act;
- (bb) any offence under the Marine, &c., Broadcasting (Offences) Act 1967;] and
- (c) any offence under section 7 of the 1967 Act.
- (2) Where—
- (a) a search warrant is granted under section 15(1) of the 1949 Act (entry and search of premises, etc.); and
- (b) the suspected offence (or any of the suspected offences) is an offence to which this section applies;
- the warrant may authorise [^{F5}any person authorised by the Secretary of State to exercise the power conferred by this subsection] to seize and detain, for the purposes of any relevant proceedings, any apparatus or other thing found in the course of the search carried out in pursuance of the warrant which appears to him ^{F6}. . . to have been used in connection with or to be evidence of the commission of any such offence.
- (3) If a constable or any person authorised by the Secretary of State to exercise the power conferred by this subsection has reasonable grounds to suspect that an offence to which this section applies has been or is being committed, he may seize and detain, for the purposes of any relevant proceedings, any apparatus or other thing which appears to him to have been used in connection with or to be evidence of the commission of any such offence.
- (4) Nothing in this section shall prejudice any power to seize or detain property which is exercisable by a constable apart from this section.
- [^{F7}(4A) Without prejudice to any power exercisable by him apart from this subsection, a person authorised by the Secretary of State to exercise any power conferred by this section may use reasonable force, if necessary, in the exercise of that power.]
- (5) Any person who intentionally obstructs any person in the exercise of the power conferred on him under subsection (3) above shall be guilty of an offence under the 1949 Act.
- (6) References in this section to relevant proceedings are references to—
- (a) any proceedings for an offence to which this section applies; and
- (b) any proceedings for forfeiture under section 80 or 81 below.

Textual Amendments

- F3** S. 79(1)(bza) inserted (18.9.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 179\(3\)\(4\)](#), 411 (with [Sch. 18](#)); [S.I. 2003/1900](#), [art. 2\(2\)](#), [Sch. 2](#)
- F4** S. 79(1)(ba)(bb) inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [s. 173\(4\)](#)
- F5** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [s. 173\(5\)\(a\)](#)
- F6** Words repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [ss. 173\(5\)\(b\)](#), 203(3), [Sch. 21](#)
- F7** S. 79(4A) inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [s. 173\(6\)](#)

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80 Proceedings in England and Wales or Northern Ireland for forfeiture of restricted apparatus.

- (1) Apparatus is restricted apparatus for the purposes of this section and section 81 below if custody or control of apparatus of any class or description to which it belongs is for the time being restricted by an order under section 7 of the 1967 Act.
- (2) Where any restricted apparatus is seized in pursuance of a warrant under section 15(1) of the 1949 Act or in exercise of the power conferred by section 79(3) above, a constable or any person authorised by the Secretary of State for the purpose may apply to a justice of the peace acting for the petty sessions area in which the apparatus was seized (referred to below in this section as the relevant petty sessions area) to initiate proceedings for forfeiture of the apparatus under this section.
- (3) An application under this section must be made within the period of six months beginning with the date on which the apparatus to which it relates was seized.
- (4) A justice of the peace to whom an application under this section is made may issue a summons to any person appearing to him to be the owner of or otherwise interested in the apparatus to which the application relates requiring him to appear on a day specified in the summons before a magistrates' court acting for the relevant petty sessions area to show cause why the apparatus should not be forfeited.
- (5) In addition to the person summoned, any other person claiming to be the owner of or otherwise interested in any apparatus to which an application under this section relates shall be entitled to appear before the court on the day specified in the summons to show cause why it should not be forfeited.
- (6) Subject to the following provisions of this section, where any apparatus is brought before a magistrates' court in proceedings under this section and the court is satisfied that the apparatus is restricted apparatus, the court shall order the apparatus to be forfeited to the Secretary of State, unless the person summoned or any other person entitled to appear before the court for that purpose shows cause why the apparatus should not be forfeited.
- (7) If the person summoned does not appear, the court shall not make an order under this section unless service of the summons is proved.
- (8) Where in any proceedings under this section an order is made for the forfeiture of any apparatus, any person who appeared, or was entitled to appear, to show cause against the making of the order may appeal to the Crown Court.
- (9) No order for the forfeiture of any apparatus made under this section shall take effect—
 - (a) until the end of the period of twenty-one days after the day on which the order is made; or
 - (b) if appeal proceedings are brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the conclusion of those proceedings.
- (10) If a magistrates' court does not order forfeiture of any apparatus brought before it in proceedings under this section the court may if it thinks fit order the person on whose application the proceedings were initiated to pay such costs as the court thinks reasonable to any person who has appeared before the court to show cause why the apparatus should not be forfeited; and costs ordered to be paid under this subsection shall be enforceable as a civil debt.

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- (11) Any apparatus ordered to be forfeited under this section may be disposed of by the Secretary of State in such manner as he thinks fit.
- (12) This section has effect notwithstanding anything in section 140 of the Magistrates' Courts Act 1980 or Article 58 of the ^{M2}Magistrates' Courts (Northern Ireland) Order ^{M3}1981.
- (13) In the application of this section to Northern Ireland references to a petty sessions area shall be read as references to a petty sessions district.
- (14) This section, except subsection (1) above, does not apply to Scotland.

Modifications etc. (not altering text)

C1 S. 80 excluded (29.12.2003) by [Communications Act 2003 \(c. 21\)](#) {ss. 182(6)}, 406, 411 (with Sch. 18); S.I. 2003/3142, [art. 3\(1\)](#), Sch. 1 (subject to [art. 3\(3\)](#) and with [art. 11](#))

Marginal Citations

M2 [S.I. 1981/1675 \(N.I. 26\)](#).

M3 [S.I. 1981/1675 \(N.I. 26\)](#).

81 Proceedings in Scotland for forfeiture of restricted apparatus.

- (1) Where in Scotland any restricted apparatus is seized in pursuance of a warrant under section 15(1) of the 1949 Act or in exercise of the power conferred by section 79(3) above, the procurator fiscal may apply to the sheriff for forfeiture of the apparatus under this section.
- (2) An application under this section shall be made in the manner specified in [^{F8}section 134 of the Criminal Procedure (Scotland) Act 1995 (in this section referred to as "the 1995 Act")] and must be made within six months of the seizure of the apparatus.
- (3) The procurator fiscal making an application under this section shall serve on any person appearing to him to be the owner of, or otherwise interested in, the apparatus to which the application relates a notice, to which is attached a copy of the application, giving him the opportunity to appear at the hearing of the application to show cause why the apparatus should not be forfeited.
- (4) Service under subsection (3) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the 1975 Act.
- (5) In addition to the person on whom notice is served under subsection (3) above, any other person claiming to be the owner or, or otherwise interested in, any apparatus to which an application under this section relates shall be entitled to appear at the hearing of the application to show cause why that apparatus should not be forfeited.
- (6) Subject to the following provisions of this section, where an application is made under this section and the court is satisfied that the apparatus is restricted apparatus, the court shall order the apparatus to be forfeited to the Secretary of State, unless cause is shown why the apparatus should not be forfeited.
- (7) The court shall not make an order under this section—

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- (a) if any person on whom notice is served under subsection (3) above does not appear, unless service of the notice on that person is proved; or
 - (b) if no notice under subsection (3) above has been served on any person, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.
- (8) Where in any proceedings under this section an order is made for the forfeiture of any apparatus, any person who appeared, or was entitled to appear, to show cause why the apparatus should not be forfeited may within twenty-one days of the making of the order appeal to the High Court by bill of suspension on the ground of an alleged miscarriage of justice in the proceedings; [^{F9}and section 182(5)(a) to (e) of the 1995 Act shall apply to appeals under this section as it applies to appeals such as are mentioned in section 176(1) of that Act].
- (9) No order for the forfeiture of any apparatus made under this section shall take effect—
- (a) until the end of the period of twenty-one days after the day on which the order is made; or
 - (b) if appeal proceedings are brought in respect of the order within that period, until the conclusion of those proceedings.
- (10) Any apparatus ordered to be forfeited under this section may be disposed of by the Secretary of State in such manner as he thinks fit.
- (11) This section applies to Scotland only.

Textual Amendments

- F8** Words in s. 81(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 48(2)
- F9** Words in s. 81(8) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 48(3)

Modifications etc. (not altering text)

- C2** S. 81 excluded (29.12.2003) by Communications Act 2003 (c. 21) {ss. 182(6)}, 406, 411 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (subject to art. 3(3) and with art. 11)

82 Amendments with respect to forfeiture on conviction.

The following subsections shall be substituted for subsection (3) of section 14 of the 1949 Act (forfeiture of wireless telegraphy apparatus used in commission of certain offences)—

- “(3) Where a person is convicted of—
- (a) 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; or
 - (b) any offence under section 12A of this Act; or
 - (c) any offence under this Act which is an offence under section 7 of the Wireless Telegraphy Act 1967 (whether as originally enacted or as substituted by section 77 of the Telecommunications Act 1984);

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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 Secretary of State.

The power conferred by virtue of paragraph (a) or (c) above does not apply to wireless telegraphy apparatus not designed or adapted for emission (as opposed to reception).

- (3A) Without prejudice to the operation of subsection (3) of this section in relation to any other apparatus, where a person is convicted of an offence under this Act involving restricted apparatus, the court shall order the apparatus to be forfeited to the Secretary of State unless the accused or any person claiming to be the owner of or otherwise interested in the apparatus shows cause why the apparatus should not be forfeited.

Apparatus is restricted apparatus for the purposes of this subsection if custody or control of apparatus of any class or description to which it belongs is for the time being restricted by an order under section 7 of the Wireless Telegraphy Act 1967.

- (3B) Apparatus may be ordered to be forfeited under this section notwithstanding that it is not the property of the person by whom the offence giving rise to the forfeiture was committed, and any apparatus ordered to be forfeited under this section may be disposed of by the Secretary of State in such manner as he thinks fit.
- (3C) Subsections (3) to (3B) of this section have effect notwithstanding anything in section 140 of the Magistrates' Courts Act 1980 or Article 58 of the Magistrates' Courts (Northern Ireland) Order 1981.
- (3D) The court by whom any apparatus is ordered to be forfeited under this section may also order the person by whom the offence giving rise to the forfeiture was committed not to dispose of that apparatus except by delivering it up to the Secretary of State within forty-eight hours of being so required by him.
- (3E) If a person against whom an order is made under subsection (3D) of this section contravenes that order or fails to deliver up the apparatus to the Secretary of State as required he shall be guilty of a further offence under this Act which, for the purpose of determining the appropriate penalty in accordance with the provisions of this section relating to penalties (whether as originally enacted or as substituted by paragraph 1 of Schedule 3 to the Telecommunications Act 1984), shall be treated as an offence under the same provision as the offence for which the forfeiture was ordered.?"

83 Disposal of apparatus and other property seized by virtue of section 79.

- (1) Any property seized by a person authorised by the Secretary of State in pursuance of a warrant under section 15(1) of the 1949 Act or in exercise of the power conferred by section 79(3) above may be detained—
- (a) until the end of the period of six months beginning with the date of the seizure; or
 - (b) if proceedings for an offence to which section 79 above applies involving that property or proceedings for forfeiture of that property under section 80

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or 81 above are instituted within that period, until the conclusion of those proceedings.

- (2) After the end of the period for which its detention is authorised by virtue of subsection (1) above, any such property which—
- (a) remains in the possession of the Secretary of State; and
 - (b) has not been ordered to be forfeited under section 14 of the 1949 Act (which includes provision for forfeiture of wireless telegraphy apparatus used in the commission of certain offences) or under section 80 or 81 above;
- shall be dealt with in accordance with the following provisions of this section (and references in those provisions to the relevant property are references to any property to which this subsection applies).
- (3) The Secretary of State shall take reasonable steps to deliver the relevant property to any person appearing to him to be its owner.
- (4) Where the relevant property remains in the possession of the Secretary of State after the end of the period of one year immediately following the end of the period for which its detention is authorised by subsection (1) above, the Secretary of State may dispose of it in such manner as he thinks fit.
- (5) The delivery of the relevant property in accordance with subsection (3) above to any person appearing to the Secretary of State to be its owner shall not affect the right of any other person to take legal proceedings against the person to whom it is delivered or against anyone subsequently in possession of the property for the recovery of the property.

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