



Broadcasting Act 1990

1990 CHAPTER 42

PART VIII

PROVISIONS RELATING TO WIRELESS TELEGRAPHY

168 Offence of keeping wireless telegraphy station or apparatus available for unauthorised use

The following section shall be inserted after section 1 of the Wireless Telegraphy Act 1949 (in this Part referred to as “the 1949 Act”)—

“1A Offence of keeping wireless telegraphy station or apparatus available for unauthorised use

Any person who has any station for wireless telegraphy or apparatus for wireless telegraphy in his possession or under his control and either—

- (a) intends to use it in contravention of section 1 of this Act; or
- (b) knows, or has reasonable cause to believe, that another person intends to use it in contravention of that section,

shall be guilty of an offence.”

169 Offence of allowing premises to be used for purpose of unlawful broadcasting

The following section shall be inserted in the 1949 Act after the section 1A inserted by section 168 above—

“1B Offence of allowing premises to be used for purpose of unlawful broadcasting

- (1) A person who is in charge of any premises which are used for making an unlawful broadcast, or for sending signals for the operation or control of any apparatus used for the purpose of making an unlawful broadcast from any other place, shall be guilty of an offence if—

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- (a) he knowingly causes or permits the premises to be so used; or
 - (b) having reasonable cause to believe that the premises are being so used, he fails to take such steps as are reasonable in the circumstances of the case to prevent the premises from being so used.
- (2) For the purposes of this section a person is in charge of any premises if he—
 - (a) is the owner or occupier of the premises; or
 - (b) has, or acts or assists in, the management or control of the premises.
- (3) For the purposes of this section a broadcast is unlawful if—
 - (a) it is made by means of the use of any station for wireless telegraphy or apparatus for wireless telegraphy in contravention of section 1 of this Act; or
 - (b) the making of the broadcast contravenes any provision of the Marine, &c., Broadcasting (Offences) Act 1967.
- (4) In this section—
 - “broadcast” has the same meaning as in the Marine, &c., Broadcasting (Offences) Act 1967;
 - “premises” includes any place and, in particular, includes—
 - (a) any vehicle, vessel or aircraft; and
 - (b) any structure or other object (whether movable or otherwise and whether on land or otherwise).”

170 Prohibition of acts facilitating unauthorised broadcasting

The following section shall be inserted in the 1949 Act after the section 1B inserted by section 169 above—

“1C Prohibition of acts facilitating unauthorised broadcasting

- (1) If a person—
 - (a) does any of the acts mentioned in subsection (2) in relation to a broadcasting station by which unauthorised broadcasts are made, and
 - (b) if any knowledge or belief or any circumstances is or are specified in relation to the act, does it with that knowledge or belief or in those circumstances,

he shall be guilty of an offence.
- (2) The acts referred to in subsection (1) are—
 - (a) participating in the management, financing, operation or day-to-day running of the station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
 - (b) supplying, installing, repairing or maintaining any wireless telegraphy apparatus or any other item knowing, or having reasonable cause to believe, that the apparatus or other item is to be, or is, used for the purpose of facilitating the operation or day-to-day running of the station and that unauthorised broadcasts are made by the station;
 - (c) rendering any other service to any person knowing, or having reasonable cause to believe, that the rendering of that service to that

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person will facilitate the operation or day-to-day running of the station and that unauthorised broadcasts are so made;

- (d) supplying a film or sound recording knowing, or having reasonable cause to believe, that an unauthorised broadcast of the film or recording is to be so made;
- (e) making a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unauthorised broadcast of the work is to be so made;
- (f) making an artistic work knowing, or having reasonable cause to believe, that an unauthorised broadcast including that work is to be so made;
- (g) doing any of the following acts, namely—
 - (i) participating in an unauthorised broadcast made by the station, being actually present as an announcer, as a performer or one of the performers concerned in an entertainment given, or as the deliverer of a speech;
 - (ii) advertising, or inviting another to advertise, by means of an unauthorised broadcast made by the station; or
 - (iii) publishing the times or other details of any unauthorised broadcasts made by the station or (otherwise than by publishing such details) publishing an advertisement of matter calculated to promote the station (whether directly or indirectly),

knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station.

- (3) In any proceedings against a person for an offence under this section consisting in the supplying of any thing or the rendering of any service, it shall be a defence for him to prove that he was obliged, under or by virtue of any enactment, to supply that thing or render that service.
- (4) If, by means of an unauthorised broadcast made by a broadcasting station, it is stated, suggested or implied that any entertainment of which a broadcast is so made has been supplied by, or given at the expense of, a person, then for the purposes of this section he shall, unless he proves that it was not so supplied or given, be deemed thereby to have advertised.
- (5) Section 46 of the Consumer Protection Act 1987 shall have effect for the purpose of construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of any goods.
- (6) In this section—
 - “broadcast” has the same meaning as in the Marine, &c., Broadcasting (Offences) Act 1967;
 - “broadcasting station” means any business or other operation (whether or not in the nature of a commercial venture) which is engaged in the making of broadcasts;
 - “film”, “sound recording”, “literary, dramatic or musical work” and “artistic work” have the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;
 - “speech” includes lecture, address and sermon; and

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“unauthorised broadcast” means a broadcast made by means of the use of a station for wireless telegraphy or wireless telegraphy apparatus in contravention of section 1 of this Act.”

171 Amendments of the Marine, &c., Broadcasting (Offences) Act 1967

The Marine, &c., Broadcasting (Offences) Act 1967 shall have effect subject to the amendments specified in Schedule 16 (which include amendments that impose further restrictions on broadcasting at sea and on acts facilitating such broadcasting).

172 Amendments of provisions of 1949 Act relating to penalties and forfeiture

(1) Section 14 of the 1949 Act (penalties and legal proceedings) shall be amended as follows.

(2) In subsection (1), the following paragraphs shall be inserted before paragraph (a)—

- “(aa) any offence under section 1(1) of this Act other than one falling within subsection (1A)(a) of this section;
- (ab) any offence under section 1A of this Act other than one falling within subsection (1A)(aa) of this section;
- (ac) any offence under section 1B or 1C of this Act;”.

(3) In subsection (1A), the following paragraph shall be inserted after paragraph (a)—

- “(aa) any offence under section 1A of this Act committed in relation to any wireless telegraphy apparatus not designed or adapted for emission (as opposed to reception);”.

(4) The following subsections shall be substituted for subsection (3)—

“(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 (including an offence under section 1B or 1C of this Act) or in the use of any apparatus for the purpose of interfering with any wireless telegraphy;
- (b) any offence under section 12A of this Act;
- (c) any offence under the Marine, &c., Broadcasting (Offences) Act 1967; or
- (d) 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),

the court may, in addition to any other penalty, order such of the following things to be forfeited to the Secretary of State as the court considers appropriate, that is to say—

- (i) any vehicle, vessel or aircraft, or any structure or other object, which was used in connection with the commission of the offence;
- (ii) any wireless telegraphy apparatus or other apparatus in relation to which the offence was committed or which was used in connection with the commission of it;
- (iii) any wireless telegraphy apparatus or other apparatus not falling within paragraph (ii) above which was, at the time of the commission of the offence, in the possession or

under the control of the person convicted of the offence and was intended to be used (whether or not by that person) in connection with the making of any broadcast or other transmission that would contravene section 1 of this Act or any provision of the Marine, &c., Broadcasting (Offences) Act 1967.

(3AA) The power conferred by virtue of subsection (3)(a) above does not apply in a case where the offence is any such offence as is mentioned in subsection (1A) (a) or (aa) above.

(3AB) References in subsection (3)(ii) or (iii) above to apparatus other than wireless telegraphy apparatus include references to—

- (a) recordings;
- (b) equipment designed or adapted for use—
 - (i) in making recordings; or
 - (ii) in reproducing from recordings any sounds or visual images;and
- (c) equipment not falling within paragraphs (a) and (b) above but connected, directly or indirectly, to wireless telegraphy apparatus.”

(5) In subsection (3E), for the words from “(whether” to “provision” there shall be substituted “, shall be treated as an offence committed under the same provision, and at the same time,”.

173 Extension of search and seizure powers in relation to unlawful broadcasting etc

(1) In subsection (1) of section 15 of the 1949 Act (entry and search of premises)—

- (a) after “Act” there shall be inserted “or under the Marine, &c., Broadcasting (Offences) Act 1967”; and
- (b) the words “and named in the warrant,” shall be omitted.

(2) In subsection (2) of that section, the words “and named in the authorisation” shall be omitted.

(3) The following subsection shall be inserted after subsection (2) of that section—

“(2A) Without prejudice to any power exercisable by him apart from this subsection, a person authorised by the Secretary of State or (as the case may be) by the BBC to exercise any power conferred by this section may use reasonable force, if necessary, in the exercise of that power.”

(4) In subsection (1)(b) of section 79 of the Telecommunications Act 1984 (seizure of apparatus and other property used in committing certain offences connected with wireless telegraphy), the following paragraphs shall be inserted after “reception);”—

- “(ba) any offence under section 5(b) of that Act;
- (bb) any offence under the Marine, &c., Broadcasting (Offences) Act 1967;”.

(5) In subsection (2) of that section—

- (a) for “the person or persons named in it” there shall be substituted “any person authorised by the Secretary of State to exercise the power conferred by this subsection”; and

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(b) the words “or them” shall be omitted.

(6) The following subsection shall be inserted after subsection (4) of that section—

“(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.”

174 Application of Part VIII to Isle of Man and Channel Islands

Section 20(3) of the 1949 Act and section 10 of the Marine, &c., Broadcasting (Offences) Act 1967 (power to extend provisions to the Isle of Man and Channel Islands) shall extend respectively to the provisions of this Part amending each of those Acts.