



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 2

#### REGULATION OF RADIO SPECTRUM

### CHAPTER 4

#### ENFORCEMENT

#### *Unauthorised use etc*

### **35 Unauthorised use etc of wireless telegraphy station or apparatus**

- (1) A person commits an offence if he contravenes section 8.
- (2) A person who commits an offence under this section consisting in the establishment or use of a wireless telegraphy station, or the installation or use of wireless telegraphy apparatus, for the purpose of making a broadcast is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) In the application of subsection (2) to Scotland or Northern Ireland the reference to 12 months is to be read as a reference to six months.
- (4) A person who commits an offence under this section consisting in the installation or use of receiving apparatus is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person who commits an offence under this section other than one falling within subsection (2) or (4) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale or to both.

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(6) In the application of subsection (5) to Scotland or Northern Ireland the reference to 51 weeks is to be read as a reference to six months.

(7) In this section “broadcast” has the same meaning as in Part 5.

### **36 Keeping available for unauthorised use**

(1) A person who has a wireless telegraphy station or wireless telegraphy apparatus in his possession or under his control commits an offence if—

- (a) he intends to use it in contravention of section 8; or
- (b) he knows, or has reasonable cause to believe, that another person intends to use it in contravention of that section.

(2) A person who commits an offence under this section where the relevant contravention of section 8 would constitute an offence to which section 35(2) applies is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(3) In the application of subsection (2) to Scotland or Northern Ireland the reference to 12 months is to be read as a reference to six months.

(4) A person who commits an offence under this section in relation to receiving apparatus is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person who commits an offence under this section other than one falling within subsection (2) or (4) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale or to both.

(6) In the application of subsection (5) to Scotland or Northern Ireland the reference to 51 weeks is to be read as a reference to six months.

### **37 Allowing premises to be used for unlawful broadcasting**

(1) A person who is in charge of premises that are used for unlawful broadcasting commits an offence if—

- (a) he knowingly causes or permits the premises to be so used; or
- (b) he has reasonable cause to believe that the premises are being so used but fails to take such steps as are reasonable in the circumstances of the case to prevent them from being so used.

(2) A person who commits an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(3) In the application of subsection (2) to Scotland or Northern Ireland the reference to 12 months is to be read as a reference to six months.

(4) For the purposes of this section a person is in charge of premises if—

- (a) he is the owner or occupier of the premises; or

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- (b) he has, or acts or assists in, the management or control of the premises.
- (5) For the purposes of this section premises are used for unlawful broadcasting if they are used—
  - (a) for making an unlawful broadcast; or
  - (b) for sending signals for the operation or control of apparatus used for the purpose of making an unlawful broadcast from another place.
- (6) For the purposes of this section a broadcast is unlawful if—
  - (a) it is made by means of the use of a wireless telegraphy station or wireless telegraphy apparatus in contravention of section 8; or
  - (b) the making of the broadcast contravenes a provision of Part 5.
- (7) In this section—
  - “broadcast” has the same meaning as in Part 5;
  - “premises” includes any place and, in particular, includes—
    - (a) a vehicle, ship or aircraft; and
    - (b) a structure or other object (whether movable or not, and whether on land or not).

### **38 Facilitating unauthorised broadcasting**

- (1) This section applies in the case of a broadcasting station from which unauthorised broadcasts are made.
- (2) A person commits an offence if—
  - (a) he participates in the management, financing, operation or day-to-day running of the broadcasting station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
  - (b) he supplies, instals, repairs or maintains wireless telegraphy apparatus or any other item knowing, or having reasonable cause to believe—
    - (i) 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 broadcasting station, and
    - (ii) that unauthorised broadcasts are made by the station;
  - (c) he renders any other service to a person knowing, or having reasonable cause to believe—
    - (i) that the rendering of the service to the person will facilitate the operation or day-to-day running of the broadcasting station, and
    - (ii) that unauthorised broadcasts are made by the station;
  - (d) he supplies a film or sound recording knowing, or having reasonable cause to believe, that an unauthorised broadcast of it is to be made by the broadcasting station;
  - (e) he makes a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unauthorised broadcast of it is to be made by the broadcasting station;
  - (f) he makes an artistic work knowing, or having reasonable cause to believe, that an unauthorised broadcast including that work is to be made by the broadcasting station;

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- (g) he participates in an unauthorised broadcast made by the broadcasting station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
  - (h) he advertises, or invites another to advertise, by means of an unauthorised broadcast made by the broadcasting station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
  - (i) he publishes the times or other details of unauthorised broadcasts made by the broadcasting station, or (otherwise than by publishing such details) publishes 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) For the purposes of this section a person participates in a broadcast only if he is actually present—
- (a) as an announcer;
  - (b) as a performer or one of the performers concerned in an entertainment given; or
  - (c) as the deliverer of a speech.
- (4) The cases in which a person is to be taken for the purposes of this section as advertising by means of a broadcast include any case in which he causes or allows it to be stated, suggested or implied that entertainment included in the broadcast—
- (a) has been supplied by him; or
  - (b) is provided wholly or partly at his expense.
- (5) In proceedings for an offence under this section consisting in supplying a thing or rendering a service, it is a defence for the defendant to prove that he was obliged, under or by virtue of any enactment, to supply the thing or render the service.
- (6) A person who commits an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) In the application of subsection (6) to Scotland or Northern Ireland the reference to 12 months is to be read as a reference to six months.
- (8) In this section—
- “broadcast” has the same meaning as in Part 5;
  - “broadcasting station” means a business or other operation (whether or not in the nature of a commercial venture) that is engaged in the making of broadcasts;
  - “unauthorised broadcast” means a broadcast made by means of the use of a wireless telegraphy station or wireless telegraphy apparatus in contravention of section 8.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3 6](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 48(3A) inserted by [2016 c. 25 s. 259\(4\)](#)