Wireless Telegraphy Act 2006

2006 CHAPTER 36

PART 6

GENERAL

Fixed penalties

96 Fixed penalties for summary offences

Schedule 4 (which makes provision as respects fixed penalty notices for certain summary offences) has effect.

Entry, search and seizure

97 Powers of entry and search

(1) A justice of the peace may grant a search warrant under this section if he is satisfied by information on oath that—

(a) there is reasonable ground for suspecting that an offence under this Act, other than an offence under Part 4 or section 111, has been or is being committed; and

(b) evidence of the commission of the offence is to be found on premises specified in the information, or in a vehicle, ship or aircraft so specified.

(2) A search warrant under this section is a warrant empowering a constable or any person or persons authorised for the purpose by OFCOM or the Secretary of State—

(a) to enter, at any time within the relevant period, the premises specified in the information or (as the case may be) the vehicle, ship or aircraft so specified and any premises on which it may be;

(b) to search the premises, vehicle, ship or aircraft;

(c) to examine and test any apparatus found there.

(3) In subsection (2) "the relevant period" means the period of three months beginning with the day after the date of the warrant.

(4) In the application of subsection (3) to Scotland or Northern Ireland the reference to three months is to be read as a reference to one month.

(5) Where a person authorised by OFCOM or the Secretary of State is empowered by a search warrant under this section to enter any premises, he is to be entitled to exercise that warrant alone or to exercise it accompanied by one or more constables.

(6) A person authorised by OFCOM or the Secretary of State to exercise a power conferred by this section may if necessary use reasonable force in the exercise of the power.

(7) Subsection (6) does not affect any power exercisable apart from that subsection by a person so authorised.

(8) Where under this section a person has a right to examine and test apparatus on premises or in a ship, aircraft or vehicle, any person who—

(a) is on the premises, or

(b) is in charge of, or in or in attendance on, the ship, aircraft or vehicle,

must give him whatever assistance he may reasonably require in the examination or testing of the apparatus.

(9) In this section—

(a) a reference to a justice of the peace is to be read, in Scotland, as a reference to a sheriff and, in Northern Ireland, as a reference to a lay magistrate;

(b) a reference to information on oath is to be read, in Northern Ireland, as a reference to complaint on oath.

98 Obstruction and failure to assist

(1) A person commits an offence if—

(a) he intentionally obstructs a person in the exercise of the powers conferred on him under section 97; or

(b) he fails or refuses, without reasonable excuse, to give to such a person any assistance which, under that section, he is under a duty to give to him.

(2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

99 Powers of seizure

(1) This section applies to—

(a) an indictable offence under this Act, other than an offence under section 111;

(b) an offence under section 35, other than one consisting in the installation or use of receiving apparatus;

(c) an offence under section 36, other than one where the relevant contravention of section 8 would constitute an offence consisting in the use of receiving apparatus;

(d) an offence under section 48;

(e) an offence under section 66.

(2) Where—

(a) a search warrant is granted under section 97, and

(b) the suspected offence (or any of the suspected offences) is an offence to which this section applies,

the warrant may authorise a person authorised by OFCOM 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 that appears to him to be a relevant item.

(3) If a constable or a person authorised by OFCOM 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 that appears to him to be a relevant item.

(4) A person authorised by OFCOM to exercise a power conferred by this section may if necessary use reasonable force in the exercise of the power.

(5) Subsection (4) does not affect any power exercisable by the person so authorised apart from that subsection.

(6) Nothing in this section affects any power to seize or detain property that is exercisable by a constable apart from this section.

(7) In this section—

"relevant item" means an item that—

(a) was used in connection with an offence to which this section applies; or

(b) is evidence of the commission of such an offence;

"relevant proceedings" means—

(a) proceedings for an offence to which this section applies; or

(b) proceedings for condemnation under Schedule 6.

100 Obstruction

(1) A person commits an offence if he intentionally obstructs a person in the exercise of the power conferred on him under section 99(3).

(2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Disposal and forfeiture

101 Detention and disposal of property

(1) This section applies to property seized by a person authorised by OFCOM—

(a) in pursuance of a warrant under section 97; or

(b) in the exercise of the power conferred by section 99(3).

(2) The property may be detained—

(a) until the end of the period of six months beginning with the date of seizure; or

(b) if proceedings for an offence to which section 99 applies involving that property or proceedings under Schedule 6 for condemnation of that property as forfeited are instituted within that period, until the conclusion of those proceedings.

(3) Subsections (4) to (6) apply in the case of property so detained which, after the end of the period authorised by subsection (2)—

(a) remains in the possession of OFCOM; and

(b) has not been ordered to be forfeited under Schedule 5 or condemned as forfeited under Schedule 6.

(4) OFCOM must take reasonable steps to deliver the property to the person who appears to them to be its owner.

(5) If the property remains in the possession of OFCOM after the end of one year immediately following the end of the period of detention authorised by subsection (2), OFCOM may dispose of it in such manner as they think fit.

(6) The delivery of the property in accordance with subsection (4) to the person who appears to OFCOM to be its owner does not affect the right of any other person to take legal proceedings for the recovery of the property—

(a) against the person to whom the property is so delivered; or

(b) against any person subsequently in possession of the property.

102 Section 101: conclusion of proceedings

(1) This section applies to—

(a) proceedings for an offence to which section 99 applies;

(b) proceedings under Schedule 6 for the condemnation of apparatus as forfeited.

(2) Where proceedings to which this section applies are terminated by an appealable decision, they are not to be regarded as concluded for the purposes of section 101(2)(b)—

(a) until the end of the ordinary time for appeal against the decision, if no appeal in respect of the decision is brought within that time; or

(b) if an appeal in respect of the decision is brought within that time, until the conclusion of the appeal.

(3) Subsection (2) applies for determining, for the purposes of paragraph (b) of that subsection, when proceedings on an appeal are concluded as it applies for determining when the original proceedings are concluded.

(4) References in subsection (2) to a decision which terminates proceedings include references to a verdict, sentence, finding or order that puts an end to the proceedings.

(5) An appealable decision is a decision of a description against which an appeal will lie, whether by way of case stated or otherwise and whether with or without permission.

(6) References to an appeal include references to an application for permission to appeal.

103 Forfeiture on conviction

Schedule 5 (which makes provision in relation to forfeiture on conviction) has effect.

104 Forfeiture etc of restricted apparatus

(1) Apparatus to which this section applies is liable to forfeiture if, immediately before being seized, it was in a person's custody or control in contravention of section 62(5).

(2) This section applies to apparatus if it has been seized—
  (a) in pursuance of a warrant granted under section 97; or
  (b) in the exercise of the power conferred by section 99(3).

(3) Apparatus forfeited under this section is to be forfeited to OFCOM and may be disposed of by them in any manner they think fit.

(4) Schedule 6 (which makes provision in relation to the seizure and forfeiture of apparatus) has effect.

Enforcement, proceedings etc

105 Offences relating to ships or aircraft

(1) This section applies if an offence is committed under any of sections 11, 35 to 38, 46 to 48, 58 and 68.

(2) Where the offence is committed in relation to a station or apparatus on board or released from a ship or aircraft, the captain or person for the time being in charge of the ship or aircraft is guilty of the offence (as well as anyone who is guilty of it apart from this subsection).

(3) This section does not apply where the offence consists in the use by a passenger on board the ship or aircraft of receiving apparatus that is not part of the wireless telegraphy apparatus, if any, of the ship or aircraft.

106 Continuing offences

(1) This section applies where—
  (a) a person is convicted of an offence under Part 2 or 3 consisting in—
    (i) the use of a wireless telegraphy station or wireless telegraphy apparatus, or
    (ii) a failure or refusal to cause a wireless telegraphy licence or an authority under section 52(3) to be surrendered; and
  (b) the use, or the failure or refusal, continues after the conviction.

(2) The person is to be treated as committing a separate offence in respect of every day on which the use, or the failure or refusal, so continues.

(3) Subsection (2) does not affect the right to bring separate proceedings for contraventions of this Act taking place on separate occasions.

107 Proceedings and enforcement

(1) Proceedings for—
  (a) an offence under Part 2, 3 or 6 (other than an offence under section 111) that is committed in UK territorial sea, or
  (b) an offence under Part 5,

may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(2) For the purpose of the enforcement of any provision falling within subsection (3), a member of a police force has in any area of the sea within the seaward limits of UK territorial sea all the powers, protection and privileges which he has in the area for which he acts as constable.

(3) The provisions are—
- (a) sections 8 to 11, 32 to 38 and 45 to 53;
- (b) Part 3;
- (c) Part 5;
- (d) sections 97 to 100, 103, 105 and 106 and Schedule 5.

(4) In the application of this section to Northern Ireland, subsection (2) has effect with the substitution—
- (a) for the words "a police force" of the words "the Police Service of Northern Ireland", and
- (b) for the words "the area for which he acts as constable" of the words "Northern Ireland".

108 Civil proceedings

(1) Where the doing of a thing is rendered unlawful by Part 2 or 3, and it is also an offence under this Act, the fact that it is such an offence does not limit a person's right to bring civil proceedings in respect of the doing or apprehended doing of that thing.

(2) Without prejudice to the generality of subsection (1), compliance with a provision of Part 2 or 3 contravention of which is an offence under this Act is enforceable in civil proceedings by the Crown, or by OFCOM, for an injunction or for any other appropriate relief.

(3) In the application of this section to Scotland, subsection (2) has effect as if for the words from "civil proceedings" to the end there were substituted "civil proceedings by the Advocate General for Scotland, or by OFCOM, for an interdict or for any other appropriate relief or remedy".

109 Fines in Scotland

(1) Fines imposed in respect of offences falling within subsection (2) are to be paid into the Consolidated Fund.

(2) The offences are offences committed in Scotland under—
- (a) Part 2;
- (b) Part 3;
- (c) section 98;
- (d) section 100;
- (e) paragraph 5 of Schedule 5.

110 Criminal liability of company directors etc

(1) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person who was purporting to act in any such capacity,

he (as well as the body corporate) is guilty of that offence and is liable to be proceeded against and punished accordingly.

(2) Where an offence under this Act—

(a) is committed by a Scottish firm, and

(b) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a partner of the firm,

he (as well as the firm) is guilty of that offence and is liable to be proceeded against and punished accordingly.

(3) "Director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Disclosure of information

111 General restrictions

(1) Information with respect to a particular business which has been obtained in exercise of a power conferred by this Act is not, so long as that business continues to be carried on, to be disclosed without the consent of the person for the time being carrying on that business.

(2) Subsection (1) has effect subject to the following provisions of this section.

(3) Subsection (1) does not apply to any disclosure of information which is made—

(a) for the purpose of facilitating the carrying out by OFCOM of any of their functions;

(b) for the purpose of facilitating the carrying out by any relevant person of any relevant function;

(c) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions;

(d) for any of the purposes specified in section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (criminal proceedings and investigations);

(e) for the purpose of any civil proceedings brought under or because of this Act or any of the enactments or instruments mentioned in subsection (6); or

(f) for the purpose of securing compliance with an international obligation of the United Kingdom.

(4) The following are relevant persons—

(a) a Minister of the Crown and the Treasury;

(b) the Scottish Executive;

(c) a Northern Ireland department;

(d) the Office of Fair Trading;

(e) the Competition Commission;
(f) the Consumer Panel;
(g) the Welsh Authority;
(h) a local weights and measures authority in Great Britain;
(i) any other person specified for the purposes of this subsection in an order made by the Secretary of State.

(5) The following are relevant functions—
(a) any function conferred by or under this Act;
(b) any function conferred by or under any enactment or instrument mentioned in subsection (6);
(c) any other function specified for the purposes of this subsection in an order made by the Secretary of State.

(6) The enactments and instruments referred to in subsections (3) and (5) are—
(a) the Wireless Telegraphy Act 1967 (c. 72);
(b) the Trade Descriptions Act 1968 (c. 29);
(c) the Fair Trading Act 1973 (c. 41);
(d) the Consumer Credit Act 1974 (c. 39);
(e) the Competition Act 1980 (c. 21);
(f) the Telecommunications Act 1984 (c. 12);
(g) the Consumer Protection Act 1987 (c. 43);
(h) the Broadcasting Act 1990 (c. 42);
(i) the Broadcasting Act 1996 (c. 55);
(j) the Competition Act 1998 (c. 41);
(k) the Enterprise Act 2002 (c. 40);
(l) the Communications Act 2003 (c. 21);
(m) the Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20));
(n) the Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915).

(7) Nothing in this section—
(a) limits the matters that may be published under section 15, 26 or 390 of the Communications Act 2003;
(b) limits the matters that may be included in, or made public as part of, a report made by OFCOM because of a provision of the Office of Communications Act 2002 (c. 11) or the Communications Act 2003;
(c) prevents the disclosure of anything for the purposes of a report of legal proceedings in which it has been publicly disclosed;
(d) applies to information that has been published or made public as mentioned in paragraphs (a) to (c).

(8) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (restriction on disclosure of information for overseas purposes) has effect in relation to a disclosure because of subsection (3)(d) as it has effect in relation to a disclosure in exercise of a power to which section 17 of that Act applies.

(9) A person commits an offence if he discloses information in contravention of this section.

(10) A person who commits an offence under subsection (9) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(11) No order is to be made containing provision authorised by subsection (4) or (5) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(12) In this section—

"the Consumer Panel" means the panel established under section 16 of the Communications Act 2003 (c. 21);

"enactment" has the same meaning as in the Communications Act 2003;

"legal proceedings" means civil or criminal proceedings in or before any court, or proceedings before any tribunal established by or under any enactment;

"the Welsh Authority" means the authority whose name is, by virtue of section 56(1) of the Broadcasting Act 1990 (c. 42), Sianel Pedwar Cymru.

Notifications etc and electronic working

112 Service of documents

(1) This section applies where provision made (in whatever terms) by or under this Act authorises or requires—

(a) a notification to be given to any person; or

(b) a document of any other description (including a copy of a document) to be sent to any person.

(2) The notification or document may be given or sent to the person in question—

(a) by delivering it to him;

(b) by leaving it at his proper address; or

(c) by sending it by post to him at that address.

(3) The notification or document may be given or sent to a body corporate by being given or sent to the secretary or clerk of that body.

(4) The notification or document may be given or sent to a firm by being given or sent to—

(a) a partner in the firm; or

(b) a person having the control or management of the partnership business.

(5) The notification or document may be given or sent to an unincorporated body or association by being given or sent to a member of the governing body of the body or association.

(6) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is—

(a) in the case of a body corporate, the address of the registered or principal office of the body;

(b) in the case of a firm, unincorporated body or association, the address of the principal office of the partnership, body or association;

(c) in the case of a person to whom the notification or other document is given or sent in reliance on any of subsections (3) to (5), the proper address of the body corporate, firm or (as the case may be) other body or association in question; and

(d) in any other case, the last known address of the person in question.

(7) In the case of—

(a) a company registered outside the United Kingdom,

(b) a firm carrying on business outside the United Kingdom, or

(c) an unincorporated body or association with offices outside the United Kingdom,

the references in subsection (6) to its principal office include references to its principal office within the United Kingdom (if any).

(8) In this section—

"document" includes anything in writing; and

"notification" includes notice;

and references to giving or sending a notification or other document to a person include references to transmitting it to him and to serving it on him.

(9) This section has effect subject to section 113.

113 Documents in electronic form

(1) This section applies where—

(a) section 112 authorises the giving or sending of a notification or other document by its delivery to a particular person ("the recipient"); and

(b) the notification or other document is transmitted to the recipient—

(i) by means of an electronic communications network; or

(ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(2) For the purposes of subsection (1), something is not to be regarded as in an intelligible form if it cannot be readily understood without being decrypted or having some comparable process applied to it.

(3) The transmission has effect for the purposes of this Act as a delivery of the notification or other document to the recipient, but only if the requirements imposed by or under this section are complied with.

(4) Where the recipient is OFCOM—

(a) they must have indicated their willingness to receive the notification or other document in a manner mentioned in subsection (1)(b);

(b) the transmission must be made in such manner and satisfy such other conditions as they may require; and

(c) the notification or other document must take such form as they may require.

(5) Where the person making the transmission is OFCOM, they may (subject to subsection (6)) determine—

(a) the manner in which the transmission is made; and

(b) the form in which the notification or other document is transmitted.

(6) Where the recipient is a person other than OFCOM—

(a) the recipient, or

(b) the person on whose behalf the recipient receives the notification or other document,

must have indicated to the person making the transmission the recipient's willingness to receive notifications or documents transmitted in the form and manner used.

(7) An indication to any person for the purposes of subsection (6)—

(a) must be given to that person in such manner as he may require;

(b) may be a general indication or one that is limited to notifications or documents of a particular description;

(c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission; and

(d) may be modified or withdrawn at any time by a notice given to that person in such manner as he may require.

(8) An indication, requirement or determination given, imposed or made by OFCOM for the purposes of this section is to be given, imposed or made by being published in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it.

(9) Section 112(8) applies for the purposes of this section as it applies for the purposes of section 112.

114 Timing and location of things done electronically

(1) The Secretary of State may by order make provision specifying, for the purposes of this Act, the manner of determining—

(a) the times at which things done under this Act by means of electronic communications networks are done; and

(b) the places at which such things are so done, and at which things transmitted by means of such networks are received.

(2) The provision made by subsection (1) may include provision as to the country or territory in which an electronic address is to be treated as located.

(3) An order made by the Secretary of State may also make provision about the manner of proving in any legal proceedings—

(a) that something done by means of an electronic communications network satisfies the requirements of this Act for the doing of that thing; and

(b) the matters mentioned in subsection (1)(a) and (b).

(4) An order under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.

Interpretation

115 General interpretation

(1) In this Act—

"artistic work" has the meaning given by section 4(1) of the Copyright, Designs and Patents Act 1988 (c. 48);

"associated facility" has the meaning given by section 32 of the Communications Act 2003 (c. 21);

"broadcast" (except in sections 35 to 38 and Part 5), means broadcast by wireless telegraphy, and cognate expressions are to be construed accordingly;

"business" includes a trade or profession;

"communications provider" has the same meaning as in the Communications Act 2003;

"contravention" includes a failure to comply, and cognate expressions are to be construed accordingly;

"electric line" has the meaning given by section 64(1) of the Electricity Act 1989 (c. 29);

"electronic communications network" and "electronic communications service" have the meaning given by section 32 of the Communications Act 2003;

"emission", in relation to electromagnetic energy, is to be construed in accordance with subsection (2);

"the enactments relating to the management of the radio spectrum" has the meaning given by section 405 of the Communications Act 2003;

"film" has the meaning given by section 5B(1) of the Copyright, Designs and Patents Act 1988 (c. 48);

"frequency" includes frequency band;

"grant of recognised spectrum access" means a grant made under section 18;

"information" includes accounts, estimates and projections and any document;

"interfere" and "interference", in relation to wireless telegraphy, are to be construed in accordance with subsection (3);

"international obligation of the United Kingdom" includes any Community obligation and any obligation which will or may arise under any international agreement or arrangements to which the United Kingdom is party;

"literary, dramatic or musical work" has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988;

"modification" includes omissions, alterations and additions, and cognate expressions are to be construed accordingly;

"OFCOM" means the Office of Communications;

"radio spectrum functions", in relation to OFCOM, means their functions under the enactments relating to the management of the radio spectrum;

"receiving apparatus" means wireless telegraphy apparatus that is not designed or adapted for emission (as opposed to reception);

"ship" includes every description of vessel used in navigation;

"sound recording" has the meaning given by section 5A(1) of the Copyright, Designs and Patents Act 1988;

"speech" includes lecture, address and sermon;

"supply", in relation to any item, is to be construed in accordance with subsection (6);

"UK territorial sea" means the territorial sea adjacent to the United Kingdom;

"wireless telegraphy" is to be construed in accordance with section 116;

"wireless telegraphy apparatus" is to be construed in accordance with section 117;

"wireless telegraphy licence" means a licence granted under section 8;

"wireless telegraphy station" is to be construed in accordance with section 117.

(2) A reference in this Act to the emission of electromagnetic energy, or to emission (as opposed to reception), includes a reference to the deliberate reflection (whether continuous or intermittent) of electromagnetic energy by means of apparatus designed or specially adapted for the purpose.

(3) For the purposes of this Act, wireless telegraphy is interfered with if the fulfilment of the purposes of the telegraphy is prejudiced (either generally or in part and, in particular, as respects all, or as respects any, of the recipients or intended recipients of a message, sound or visual image intended to be conveyed by the telegraphy) by an emission or reflection of electromagnetic energy.

(4) Interference with any wireless telegraphy is not to be regarded as undue for the purposes of this Act unless it is also harmful.

(5) For the purposes of this Act interference is harmful if—

(a) it creates dangers, or risks of danger, in relation to the functioning of any service provided by means of wireless telegraphy for the purposes of navigation or otherwise for safety purposes; or

(b) it degrades, obstructs or repeatedly interrupts anything which is being broadcast or otherwise transmitted—

(i) by means of wireless telegraphy; and

(ii) in accordance with a wireless telegraphy licence, regulations under section 8(3) or a grant of recognised spectrum access or otherwise lawfully.

(6) Section 46 of the Consumer Protection Act 1987 (c. 43) has effect for the purpose of construing references in this Act to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of goods.

(7) In this Act (except Part 5) a reference to the sending or conveying of a message includes a reference to the making of a signal or the sending or conveying of a warning or information, and a reference to the reception of a message is to be construed accordingly.

(8) A reference in this Act to apparatus on board a ship includes a reference to apparatus on a kite or captive balloon flown from a ship.

116 "Wireless telegraphy"

(1) In this Act "wireless telegraphy" means the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which subsection (2) applies.

(2) This subsection applies to electromagnetic energy of a frequency not exceeding 3,000 gigahertz that—

(a) serves for conveying messages, sound or visual images (whether or not the messages, sound or images are actually received by anyone), or for operating or controlling machinery or apparatus; or

(b) is used in connection with determining position, bearing or distance, or for gaining information as to the presence, absence, position or motion of an object or of a class of objects.

(3) The Secretary of State may by order modify the definition of "wireless telegraphy" by substituting a different frequency for the frequency that is for the time being specified in subsection (2).

(4) No order is to be made containing provision authorised by subsection (3) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

117 "Wireless telegraphy apparatus" and "wireless telegraphy station"

(1) In this Act "wireless telegraphy apparatus" means apparatus for the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which section 116(2) applies.

(2) In this Act "wireless telegraphy station"—

(a) means a station for the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which section 116(2) applies; and

(b) includes the wireless telegraphy apparatus of a ship or aircraft.

Extent and application

118 Extent

(1) Subject to subsection (2), this Act extends to Northern Ireland.

(2) An amendment, repeal or revocation made by this Act has the same extent as the enactment or other instrument amended, repealed or revoked.

(3) Her Majesty may by Order in Council extend the provisions of this Act, with such modifications as appear to Her Majesty to be appropriate, to the Isle of Man or any of the Channel Islands.

(4) But subsection (3) does not authorise the extension of sections 62 to 67 to any of the Channel Islands.

(5) Section 121(3) applies to the power to make an Order in Council under this section as it applies to a power of the Secretary of State to make an order under this Act, but as if references in section 121(3) to the Secretary of State were references to Her Majesty in Council.

(6) The provisions capable of being extended outside the United Kingdom under—

(a) section 15(6) of the Wireless Telegraphy Act 1967 (c. 72),

(b) section 204(6) of the Broadcasting Act 1990 (c. 42),

(c) section 12(4) of the Intelligence Services Act 1994 (c. 13),

(d) section 315(2) of the Merchant Shipping Act 1995 (c. 21),

(e) section 150(4) of the Broadcasting Act 1996 (c. 55), or

(f) section 411(6) of the Communications Act 2003 (c. 21),

include any amendment of those provisions made by this Act.

119 Territorial application

(1) The provisions mentioned in subsection (2) apply to—

(a) all stations and apparatus in or over, or for the time being in or over, the United Kingdom or UK territorial sea;

(b) subject to any limitations that the Secretary of State may by regulations determine, all stations and apparatus on board a ship or aircraft that is registered in the United Kingdom but is not for the time being in or over the United Kingdom or UK territorial sea; and

(c) subject to any limitations that the Secretary of State may by regulations determine, all apparatus not itself in or over the United Kingdom or UK territorial sea but released—

(i) from within the United Kingdom or UK territorial sea, or

(ii) from a ship or aircraft that is registered in the United Kingdom.

(2) The provisions are—

(a) sections 8 to 11, 35 to 38, 45 to 49, 55 to 58 and 68; and

(b) regulations under section 54.

(3) Her Majesty may by Order in Council direct that a reference in subsection (1) to a ship or aircraft registered in the United Kingdom is to be construed as including a reference to a ship or aircraft—

(a) registered in the Isle of Man, in any of the Channel Islands or in a colony; or

(b) registered under the law of any other country or territory outside the United Kingdom that is for the time being administered by Her Majesty's Government in the United Kingdom.

(4) For the purposes of paragraph 4(3) of Schedule 2 to the Interpretation Act 1978 (c. 30) (meaning of "colony" in existing enactments), subsection (3) is to be treated as if contained in an Act passed before the commencement of that Act.

120 Territorial sea and other waters

(1) Her Majesty may by Order in Council provide—

(a) for an area of UK territorial sea to be treated, for the purposes of any provision of this Act, as if it were situated in such part of the United Kingdom as may be specified in the Order; and

(b) for jurisdiction with respect to questions arising in relation to UK territorial sea under any such provision to be conferred on courts in a part of the United Kingdom so specified.

(2) An Order in Council under section 11 of the Petroleum Act 1998 (c. 17) (application of civil law to offshore installations etc) or section 87 of the Energy Act 2004 (c. 20) (application of civil law to renewable energy installations etc) may make provision for treating—

(a) an installation with respect to which provision is made under that section and which is outside UK territorial sea but in waters to which that section applies, and

(b) waters within 500 metres of the installation,

as if, for the purposes of any provision of this Act, they were situated in such part of the United Kingdom as is specified in the Order.

(3) The jurisdiction conferred on a court by an Order in Council under this section is in addition to any jurisdiction exercisable apart from this section by that or any other court.

(4) Section 121(3) applies to the power to make an Order in Council under this section as it applies to any power of the Secretary of State to make an order under this Act, but as if references in section 121(3) to the Secretary of State were references to Her Majesty in Council.

(5) A statutory instrument containing an Order in Council under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) "Installation" includes any floating structure or device maintained on a station by whatever means, and installations in transit.

Supplemental

121 Orders and regulations made by Secretary of State

(1) Every power conferred by this Act on the Secretary of State to make orders or regulations is exercisable by statutory instrument.

(2) A statutory instrument containing an order or regulations made in exercise of such a power, other than—

(a) an order under section 5,

(b) regulations under section 49(4)(g),

(c) an order under section 111,

(d) an order under section 116, or

(e) an order under paragraph 26 or 27 of Schedule 8,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Every power of the Secretary of State to make an order or regulations under this Act includes power—

(a) to make different provision for different cases (including different provision in respect of different areas);

(b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and

(c) to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.

122 Orders and regulations made by OFCOM

(1) This section applies to every power of OFCOM to make regulations or an order under this Act.

(2) Those powers are exercisable by statutory instrument, and the Statutory Instruments Act 1946 (c. 36) is to apply in relation to those powers as if OFCOM were a Minister of the Crown.

(3) Where an instrument made under such a power falls to be laid before Parliament, OFCOM must, immediately after it is made, send it to the Secretary of State for laying by him.

(4) Before making any regulations or order under such a power, OFCOM must—

(a) give a notice of their proposal to do so to such persons representative of the persons appearing to OFCOM to be likely to be affected by the implementation of the proposal as OFCOM think fit;

(b) publish notice of their proposal in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it and are not given notice by virtue of paragraph (a); and

(c) consider any representations that are made to OFCOM, before the time specified in the notice.

(5) A notice for the purposes of subsection (4) must—

(a) state that OFCOM propose to make the regulations or order in question;

(b) set out the general effect of the regulations or order;

(c) specify an address from which a copy of the proposed regulations or order may be obtained; and

(d) specify a time before which any representations with respect to the proposal must be made to OFCOM.

(6) The time specified for the purposes of subsection (5)(d) must be no earlier than the end of the period of one month beginning with the day after the latest day on which the notice is given or published for the purposes of subsection (4).

(7) Every power of OFCOM to make regulations or an order under this Act includes power—

(a) to make different provision for different cases (including different provision in respect of different areas);

(b) to make provision subject to such exemptions and exceptions as OFCOM think fit; and

(c) to make such incidental, supplemental, consequential and transitional provision as OFCOM think fit.

123 Consequential amendments

Schedule 7 (consequential amendments) has effect.

124 Transitional provisions, savings and transitory modifications

Schedule 8 (transitional provisions, savings and transitory modifications) has effect.

125 Repeals and revocations

(1) The enactments mentioned in Part 1 of Schedule 9 are repealed to the extent specified.

(2) The instruments mentioned in Part 2 of that Schedule are revoked to the extent specified.

126 Short title and commencement

(1) This Act may be cited as the Wireless Telegraphy Act 2006.

(2) This Act comes into force at the end of the period of three months beginning with the day on which it is passed.