Changes to legislation: *Wireless Telegraphy Act 2006, SCHEDULE 8 is up to date with all changes known to be in force on or before 29 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 8 U.K.

Section 124

TRANSITIONAL PROVISIONS, SAVINGS AND TRANSITORY MODIFICATIONS

PART 1 U.K.

TRANSITIONAL PROVISIONS AND SAVINGS

General provisions

1 The substitution of provisions of this Act for provisions repealed or revoked by it does not affect the continuity of the law.

2 Anything done, or having effect as if done, under or for the purposes of a provision repealed by this Act (including subordinate legislation so made or having effect as if so made), and in force or effective immediately before the commencement of this Act, has effect after that commencement as if done under or for the purposes of the corresponding provision of this Act.

3 A reference (express or implied) in this Act or another enactment, or in an instrument or document, to a provision of this Act is (so far as the context permits) to be read as (according to the context) being or including a reference to the corresponding provision repealed by this Act, in relation to times, circumstances or purposes in relation to which the repealed provision had effect.

4 (1) A reference (express or implied) in an enactment, or in an instrument or document, to a provision repealed by this Act is (so far as the context permits) to be read as (according to the context) being or including a reference to the corresponding provision of this Act, in relation to times, circumstances and purposes in relation to which that corresponding provision has effect.

(2) In particular, where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act that reproduce such enactments.

5 Paragraphs 1 to 4 have effect in place of section 17(2) of the Interpretation Act 1978 (c. 30) (but do not affect the application of any other provision of that Act).

6 Paragraphs 2 and 4(1) do not apply to an Order in Council to which paragraph 24(1) applies.

General rule for old savings

7 (1) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.

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(2) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the saving in so far as it remains capable of having effect.

Use of existing forms etc

8 A reference to an enactment repealed by this Act which is contained in a document made, served or issued on or after the commencement of that repeal is to be read, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Act.

Regulatory Reform Act 2001 (c. 6)

9 F1 . . . . . .

Textual Amendments

F1 Sch. 8 para. 9 repealed (8.1.2007) by Legislative and Regulatory Reform Act 2006 (c. 51), ss. 30(1), 33, **Sch.** (with s. 30(2)-(5))

Contracted-out functions under section 1 of the Wireless Telegraphy Act 1949

10 An order under Part 2 of the Deregulation and Contracting Out Act 1994 (c. 40) which is in force immediately before the commencement of this Act and, by virtue of paragraph 6 of Schedule 18 to the Communications Act 2003 (c. 21), has effect as if made by virtue of section 1(7) of that Act shall, so long as the order remains in force, continue to have that effect by virtue of this paragraph.

Wireless telegraphy licences granted before 18th June 1998

11 (1) This paragraph has effect in relation to wireless telegraphy licences granted before 18th June 1998 (the date on which section 1 of the Wireless Telegraphy Act 1998 (c. 6) came into force).

(2) Where this paragraph has effect, section 12 is the provision of this Act which, for the purposes of paragraph 4(1) of this Schedule, corresponds to section 2(1) of the Wireless Telegraphy Act 1949 (c. 54).

Procedures treated as prescribed by regulations made by OFCOM

12 (1) Sub-paragraph (2) applies where, immediately before the commencement of this Act, procedures have effect, by virtue of paragraph 20(2) or 21(2) of Schedule 18 to the Communications Act 2003 (c. 21), as if prescribed by OFCOM by regulations under—

(a) section 1D(3) of the Wireless Telegraphy Act 1949, or

(b) section 3 of the Wireless Telegraphy Act 1998.

(2) In relation to times after the commencement of this Act, the procedures are to have effect as if prescribed by OFCOM by regulations under—

(a) paragraph 1 of Schedule 1, or

(b) section 14.

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(3) A notice under—

(a) section 1D of the Wireless Telegraphy Act 1949, or

(b) regulations under section 3 of the Wireless Telegraphy Act 1998,

which is in force immediately before the commencement of this Act and, by virtue of paragraph 20 or 21 of Schedule 18, has effect as if it authorised or required a thing to be done by or in relation to OFCOM shall, so long as it remains in force, continue to have that effect by virtue of this paragraph.

Tribunal established under section 9 of the Wireless Telegraphy Act 1949

13 The repeal by this Act of sections 11 and 12 of the Wireless Telegraphy Act 1949 does not affect the continued operation of section 11 or 12 (without the amendments made in those sections by section 178 of the Communications Act 2003) in relation to a notice under section 11(1) or (2) or section 12(1) that is served before 25th July 2003.

References to Postmaster General etc

14 The repeal by this Act of part of section 3(1)(ii) of the Post Office Act 1969 (c. 48) is not to affect the continued operation of section 3(1)(ii) in relation to a provision of regulations or a licence where the regulations were made or the licence was granted under the Wireless Telegraphy Act 1949 before 1st October 1969 (the day on which functions of the Postmaster General were transferred to the Minister).

Procedure for prosecutions

15 (1) This paragraph has effect in relation to prosecutions to which section 41 of this Act applies.

(2) The restrictions on the bringing of proceedings which are imposed by section 41(2) and (3) do not have effect in relation to proceedings started before 25th July 2003 (the date on which section 174 of the Communications Act 2003 (c. 21) came into force).

Penalties for certain offences triable either way

16 In relation to an offence committed before **[**[F2]2 May 2022**]**, the references in the following provisions to periods of imprisonment of **[**[F3]the general limit in a magistrates' court**]** are to be read as references to periods of imprisonment of six months—

(a) section 35(2);

(b) section 36(2);

(c) section 37(2);

(d) section 38(6);

(e) section 47(4);

(f) section 68(3);

(g) section 93(1).

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Textual Amendments

F2 Words in Sch. 8 para. 16 substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

F3 Words in Sch. 8 para. 16 substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

Penalties for offences: unauthorised use of wireless telegraphy station etc

17 In relation to an offence committed before 18th September 2003 (the date on which section 179 of the Communications Act 2003 came into force), each of sections 35(5) and 36(5) is to have effect as if for the words from "is liable" to the end there were substituted "is liable—

(a) on summary conviction, to imprisonment for a term not exceeding six 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."

18 In relation to an offence committed on or after 18th September 2003 but before the commencement of section 281(5) of the Criminal Justice Act 2003, the references in the following provisions to periods of imprisonment of 51 weeks are to be read as references to periods of imprisonment of six months—

(a) section 35(5);

(b) section 36(5).

Penalties for offences: contravening notice under section 55 or 56

19 In relation to an offence committed before the commencement of section 280 of the Criminal Justice Act 2003, section 58(2) has effect as if in paragraph (a) for the words "to a fine not exceeding level 5 on the standard scale" there were substituted "to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both".

Fixed penalties for wireless telegraphy offences

20 Schedule 4 to this Act does not apply to offences committed before the day which is the relevant commencement date for the purposes of paragraph 27 of this Schedule.

Powers of seizure

21 In relation to an offence committed before 18th September 2003 (the date on which section 179 of the Communications Act 2003 (c. 21) came into force), section 99(1) of this Act has effect with the omission of paragraph (c).

Forfeiture etc of restricted apparatus

22 Nothing in section 104 of, and Schedule 6 to, this Act applies in relation to apparatus seized before 29th December 2003 (the date on which section 182 of the Communications Act 2003 came into force).

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Appeals of wireless telegraphy decisions

23 The repeals made by this Act do not affect the continued operation of paragraph 23(2) of Schedule 18 to the Communications Act 2003 as regards decisions against which an appeal could have been brought under section 1F of the Wireless Telegraphy Act 1949 (c. 54).

Orders in Council: section 118

24 (1) An Order in Council made under a provision that is repealed by this Act and re-enacted in section 118(3) continues to have effect despite the repeal of that provision.

(2) An Order in Council made under section 118(3) may amend or revoke an Order in Council continued in effect by sub-paragraph (1).

Orders in Council: continental shelf

25 (1) This paragraph applies in the case of an Order in Council which, as a result of paragraph 63 of Schedule 18 to the Communications Act 2003 (provision relating to Orders in Council under section 6 of the Continental Shelf Act 1964 (c. 29)), has effect, immediately before the commencement of this Act, as if made under section 410 of the Communications Act 2003.

(2) An Order in Council to which this paragraph applies is to have effect, after the commencement of this Act, as an Order in Council made in exercise of the powers conferred by section 120.

PART 2 U.K.

TRANSITORY MODIFICATIONS

Justice (Northern Ireland) Act 2002 (c. 26)

26 (1) This paragraph applies if paragraph 25 of Schedule 7 to the Justice (Northern Ireland) Act 2002 has not come into force before the commencement of this Act.

(2) Until the relevant commencement date, section 93(4)(b) has effect as if for "the Advocate General for Northern Ireland" there were substituted " the Attorney General for Northern Ireland ".

(3) The relevant commencement date is—

(a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day for the coming into force of paragraph 25 of Schedule 7 to the Justice (Northern Ireland) Act 2002 (c. 26), the day so appointed;

(b) otherwise, such day as the Secretary of State may by order appoint.

Communications Act 2003 (c. 21)

27 (1) This paragraph applies if—

(a) section 180 of the Communications Act 2003, and

(b) Schedule 6 to that Act,

have not come into force before the commencement of this Act.

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(2) Until the relevant commencement date, this Act has effect with the omission of—
  (a) section 96, and
  (b) Schedule 4.

(3) The relevant commencement date is—
  (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day for the coming into force of the provisions mentioned in sub-paragraph (1), the day so appointed;
  (b) otherwise, such day as the Secretary of State may by order appoint.

Power to make transitional provision

28 Section 121(3) of this Act does not apply to an order made by the Secretary of State under paragraph 26 or 27, but—
  (a) an order under paragraph 26 may make such provision as may be made by an order under section 89(1) of the Justice (Northern Ireland) Act 2002 in connection with the coming into force of a provision of that Act, and
  (b) an order under paragraph 27 may make such provision as, by virtue of section 411(4) of the Communications Act 2003, is authorised to be made by an order under section 411(2) of that Act.

Saving for old transitional provisions

29 (1) This paragraph applies to any transitional or transitory provision or saving ("the transitional provision") made in connection with the coming into force of any provision of the Justice (Northern Ireland) Act 2002 or the Communications Act 2003 mentioned in sub-paragraph (1) of paragraph 26 or 27 ("the old enactment").

(2) If the old enactment is in force before the commencement of the provision of this Act reproducing its effect ("the corresponding provision of this Act"), the transitional provision is to continue to have effect (so far as capable of doing so) in relation to the corresponding provision of this Act.

(3) Sub-paragraph (4) applies if—
  (a) sub-paragraph (2) does not apply, but
  (b) before the commencement of this Act an order has been made appointing a day for the coming into force of the old enactment.

(4) The transitional provision is to have effect from the date so appointed in relation to the corresponding provision of this Act.

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. 36

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

– s. 111(6)(q) inserted by 2024 c. 13 Sch. 30 para. 29(b)