



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 3

#### REGULATION OF APPARATUS

##### *Restriction orders*

#### **62 Restriction orders**

- (1) This section applies to wireless telegraphy apparatus and to apparatus designed or adapted for use in connection with wireless telegraphy apparatus.
- (2) Where it appears to OFCOM to be expedient to do so for the purpose of preventing or reducing the risk of interference with wireless telegraphy, they may make an order (a “restriction order”) imposing restrictions in relation to apparatus to which this section applies of a class or description specified in the order.
- (3) The restrictions may relate to the following actions—
  - (a) the manufacture of apparatus (whether or not for sale);
  - (b) selling apparatus or offering it for sale;
  - (c) letting apparatus on hire or offering to let it on hire;
  - (d) indicating (whether by displaying apparatus or by any form of advertisement) willingness to sell apparatus or to let it on hire;
  - (e) having custody or control of apparatus;
  - (f) the importation of apparatus.
- (4) A restriction order must specify, in the case of apparatus of any class or description specified in the order, what actions are restricted by it.
- (5) An action for the time being restricted by a restriction order is prohibited by this section unless—
  - (a) an authority given by OFCOM relates to it; and
  - (b) it complies with any terms and conditions that OFCOM attach to the authority.

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*Status: Point in time view as at 08/02/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross Heading: Restriction orders. (See end of Document for details)*

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- (6) The approval of the Secretary of State is required for the making by OFCOM of an order under this section.
- (7) A statutory instrument containing an order made by OFCOM under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

### **63 Authorities**

- (1) An authority given by OFCOM under section 62(5) in the case of apparatus of a class or description specified in a restriction order may be limited—
  - (a) to such of the actions restricted by the order as may be specified in the authority;
  - (b) to such subsidiary class or description of apparatus, falling within the class or description specified in the order, as may be specified in the authority.
- (2) Terms or conditions attached by OFCOM to an authority under section 62(5) for the manufacture or importation of apparatus may relate to a period after, as well as to the time of, or a period before, the manufacture or importation.
- (3) An authority under section 62(5) may be given, and terms or conditions may be attached to it—
  - (a) generally by means of a notice published in the London, Edinburgh and Belfast Gazettes; or
  - (b) by an instrument in writing issued to each person authorised to do, in relation to apparatus of a class or description to which a restriction order relates, any action for the time being restricted by the order.

### **64 Compatibility with international obligations**

- (1) OFCOM may not—
  - (a) make a restriction order,
  - (b) give an authority under section 62(5), or
  - (c) attach a term or condition to such an authority,unless they are satisfied that the order, authority, term or condition is compatible with the international obligations of the United Kingdom.
- (2) Where—
  - (a) a statutory instrument containing a restriction order, or
  - (b) a notice or instrument in writing giving an authority under section 62(5), or attaching a term or condition to such an authority,contains a statement that OFCOM are satisfied as mentioned in subsection (1), the statement is evidence of that fact (and, in Scotland, sufficient evidence of it).

### **65 Powers of Commissioners for Her Majesty's Revenue and Customs**

- (1) This section applies where the importation of apparatus of a particular class or description is for the time being restricted by a restriction order.
- (2) An officer of Revenue and Customs may require a person with custody or control of apparatus of that class or description which is being or has been imported to

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provide proof that the importation of the apparatus is or was not unlawful by virtue of section 62.

- (3) If the proof required under subsection (2) is not provided to the satisfaction of the Commissioners for Her Majesty's Revenue and Customs, the apparatus is to be treated, unless the contrary is proved, as being prohibited goods, within the meaning of the Customs and Excise Management Act 1979 (c. 2), and is liable to forfeiture under that Act.

## **66 Offences**

- (1) A person commits an offence if—
- (a) he takes any action falling within section 62(3)(a) to (d) in relation to apparatus in contravention of section 62(5); or
  - (b) without reasonable excuse he has apparatus in his custody or control in contravention of section 62(5).
- (2) A person commits an offence if he contravenes or fails to comply with any terms or conditions attached to an authority given by OFCOM under section 62(5) (whatever the action to which the authority relates).
- (3) 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.
- (4) This section does not affect any liability to a penalty that may have been incurred under the Customs and Excise Management Act 1979 (c. 2).

## **67 Restriction orders: interpretation**

In sections 62 to 66—

“manufacture” includes construction by any method and the assembly of component parts;

“restriction order” has the meaning given by section 62.

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