



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 4

#### APPROVAL OF APPARATUS ETC

##### *Marking etc of apparatus*

#### **72 Information etc on or with apparatus**

- (1) This section applies where it appears to OFCOM to be expedient that relevant apparatus of a particular description should be marked with or accompanied by particular information or instruction relating to—
  - (a) the apparatus; or
  - (b) its installation or use.
- (2) OFCOM may by order—
  - (a) impose requirements for securing that relevant apparatus of that description is so marked or accompanied; and
  - (b) regulate or prohibit the supply of such relevant apparatus in cases where the requirements are not complied with.
- (3) The requirements imposed by the order may extend to the form and manner in which the information or instruction is given.
- (4) In the case of apparatus supplied in circumstances where the required information or instruction would not be conveyed until after delivery, an order under this section may require the whole or part of the information or instruction to be also displayed near the apparatus.
- (5) The approval of the Secretary of State is required for the making by OFCOM of an order under this section.
- (6) 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.

### **73 Information etc in advertisements**

- (1) This section applies where it appears to OFCOM to be expedient that a particular description of advertisements for relevant apparatus should contain or refer to particular information relating to—
  - (a) the apparatus; or
  - (b) its installation or use.
- (2) OFCOM may by order impose requirements as to the inclusion in advertisements of that description of—
  - (a) that information; or
  - (b) an indication of the means by which that information may be obtained.
- (3) An order under this section may specify the form and manner in which the information or indication required by the order is to be included in a particular description of advertisements.
- (4) The approval of the Secretary of State is required for the making by OFCOM of an order under this section.
- (5) 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.

### **74 Offences**

- (1) A person commits an offence if in the course of a trade or business he supplies, or offers to supply, apparatus in contravention of an order under section 72.
- (2) A person is to be treated as offering to supply apparatus if—
  - (a) he exposes apparatus for supply, or
  - (b) he has apparatus in his possession for supply.
- (3) A person who publishes an advertisement for apparatus to be supplied in the course of a trade or business commits an offence if the advertisement fails to comply with a requirement imposed by an order under section 73.
- (4) A person who commits an offence under subsection (1) or (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) Proceedings for an offence under this section may be commenced at any time within the period of 12 months beginning with the day after the commission of the offence.

### **75 Default of third person**

- (1) Where the commission by one person (“A”) of an offence under section 74(1) or (3) is due to the act or default of another (“B”), B also commits the offence; and B may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against A.
- (2) In proceedings for an offence under section 74(1) or (3) it is a defence for the defendant to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

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*Status: This is the original version (as it was originally enacted).*

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- (3) A person may not rely on a defence under subsection (2) which involves an allegation that the commission of the offence was due to the act or default of another person unless—
- (a) at least seven clear days before the hearing he has given to the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession; or
  - (b) the court grants him leave.
- (4) In proceedings for an offence under section 74(3) it is a defence for the defendant to prove that—
- (a) at the time of the alleged offence he was a person whose business it was to publish or arrange for the publication of advertisements;
  - (b) he received the advertisement for publication in the ordinary course of business; and
  - (c) he did not know and had no reason to suspect that publication of the advertisement would amount to an offence under that subsection.