

2003 No. 1900 (C. 77)

**ELECTRONIC COMMUNICATIONS
BROADCASTING**

**The Communications Act 2003 (Commencement No. 1)
Order 2003**

Made - - - - -

17th July 2003

The Secretary of State, in exercise of the powers conferred on her by section 408(1) and (4) and 411(2) and (4) of the Communications Act 2003(a), hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Communications Act 2003 (Commencement No. 1) Order 2003.

(2) In this Order—

“the Act” means the Communications Act 2003;

“the transitionally commenced provisions” means—

the provisions of the Act brought into force by article 2(1) of this Order, other than those contained in sections 264 and 360 to 362, Schedule 15 and paragraph 30 of Schedule 18;

the provisions of the Act brought into force by article 2(2) of this Order contained in—

section 152 and 167,
paragraphs 18, 149 and 150 of Schedule 17,
paragraph 21 of Schedule 18, and
Schedule 19; and

“the transitional period” means the period provided for by section 408(6) of the Act.

Commencement

2.—(1) The provisions of the Act set out in Schedule 1 hereto shall, subject to the exceptions set out therein, come into force on 25th July 2003.

(2) The provisions of the Act set out in Schedule 2 hereto shall come into force on 18th September 2003.

Transitional provisions: the transitionally commenced provisions

3.—(1) The transitionally commenced provisions are brought into force by this Order on 25th July 2003 or (as the case may be) 18th September 2003 for the purpose only of enabling the networks and services functions and the spectrum functions under those provisions to be carried out during the transitional period by the Director General of Telecommunications and the Secretary of State respectively.

(a) 2003 c. 21.

(2) Until the first coming into force of regulations made by the Secretary of State under section 109 of the Act—

- (a) the references to restrictions or conditions under that section in sections 110(1), 113(4)(b) and 117(5) of the Act shall, in the case of a person who (by virtue of paragraph 17(2) of Schedule 18 to the Act) is treated as a person in whose case the electronic communications code applies by virtue of a direction given by OFCOM, be treated as references to the exceptions and conditions to which the application of the telecommunications code set out in Schedule 2 to the Telecommunications Act 1984(a) to that person was subject by virtue of the provisions of his licence under section 7 of that Act of 1984, and
- (b) in the application of subparagraph (a) in the case of any particular person, any reference in the exceptions and conditions in question to the revocation or expiration without renewal of that person's licence shall be treated as references to that person's becoming subject to a direction by virtue of which he is prohibited from providing the whole or part of his network.

Transitional provisions: section 264 of the Act

4.—(1) This article shall have effect for the interpretation of section 264 of the Act.

(2) In relation to times before the coming into force of section 207 of the Act, the reference to the television programme services that are public services of the Welsh Authority shall be taken to be a reference to S4C and S4C Digital.

(3) In relation to times before the coming into force of section 266 of the Act, references to statements of programme policy shall be taken to include references to any statement made by the provider of a licensed public service channel for the purposes of his application for a licence under Part 1 of the 1990 Act for the channel or for any other purpose connected with the performance of his obligations under that licence.

(4) In relation to times before the coming into force of section 268 of the Act, references to statements of service policy shall be taken to include references to any statement made by the public teletext provider for the purposes of his application for a licence under Part 1 of the 1990 Act for the public teletext service or for any other purpose connected with the performance of his obligations under that licence.

Transitional provisions: section 348 of, and Part 4 of Schedule 14 to, the Act

5.—(1) In relation to times before the coming into force of section 350(2) of the Act, sections 5 and 88 of the 1990 Act and sections 5 and 44 of the 1996 Act (restrictions on holding licences) shall have effect as if, in paragraph (b) of subsection (1) of each of those sections, the reference to any requirements imposed by or under Parts 3 to 5 of Schedule 2 to the 1990 Act included a reference to any requirements imposed by or under Part 4 of Schedule 14 to the Act.

(2) In relation to times before the coming into force of the relevant amending provision, each of sections 5(7)(c) and 88(7)(c) of the 1990 Act(b) and sections 5(8)(c) and 44(8)(c) of the 1996 Act shall have effect as if the reference to any requirement imposed by or under Schedule 2 to the 1990 Act included a reference to any requirement imposed by or under Part 4 of Schedule 14 to the Act.

(3) In paragraph (2) above, in relation to each provision of the 1990 or 1996 Act mentioned there, “the relevant amending provision” means the following provision of Schedule 15 to the Act, that is to say—

- (a) in the case of section 5(7)(c) of the 1990 Act, paragraph 3(7);
- (b) in the case of section 88(7)(c) of that Act, paragraph 35(7);
- (c) in the case of section 5(8)(c) of the 1996 Act, paragraph 78(6);
- (d) in the case of section 44(8)(c) of that Act, paragraph 104(6).

(a) 1984 c. 12.

(b) Sections 5(7)(c) and 88(7)(c) were amended by paragraph 12(3)(a) of Part 5 of Schedule 2 to the 1996 Act and by paragraph 13(3)(a) of that Part of that Schedule, respectively.

Transitional provisions: section 362(1) of the Act

- 6.—(1) This article shall have effect for the interpretation of section 362(1) of the Act.
- (2) In relation to times before the coming into force of section 241(1) of the Act, “television multiplex service” means a multiplex service within the meaning of Part 1 of the 1996 Act.
- (3) In relation to times before the coming into force of section 258(1) of the Act, “radio multiplex service” shall have the same meaning as it has in Part 2 of the 1996 Act.
- (4) In relation to times before the grant of the first licence under section 219 of the Act—
- (a) “the public teletext provider” means the person who holds the additional services licence (within the meaning of Part 1 of the 1990 Act) which relates to the teletext service referred to in subsection (2) of section 49 of the 1990 Act;
 - (b) “the public teletext service” means the teletext service referred to in that subsection and the qualifying teletext service within the meaning of Part 1 of the 1996 Act; and
 - (c) “the digital public teletext service” means the qualifying teletext service within the meaning of Part 1 of the 1996 Act.

17th July 2003

Stephen Timms,
Minister of State for Energy, E-Commerce and Postal Services,
Department of Trade and Industry

Provisions coming into force on 25th July 2003

Section 1(3) (except for the words “including borrow money”) and (5)(c) to the extent only that those provisions are to be taken for the purposes of section 408(3) of the Act to be brought into force for the purpose of enabling networks and services functions to be carried out.

Section 4.

Section 5 to the extent only that it is to be taken for the purposes of section 408(3) of the Act to be brought into force for the purpose of enabling networks and services functions to be carried out.

Sections 24 and 25.

Section 26, except for paragraph (d) of subsection (2).

Section 32 to 55.

Sections 56 to 63, except in respect of any number which is used as an internet domain name, an internet address or an address or identifier incorporating either an internet domain name or an internet address, including an email address.

Sections 64 to 119, 125 to 151, 153, 154, 164 to 166, 169, 172 to 174, 178, 183, 185 to 197 and 264.

Section 360(3) in respect of the provisions of Schedule 15 set out in this Schedule.

Section 361 and 362.

Section 369, except for paragraph (e) of subsection (1).

Sections 370 and 371.

Section 393, except for—

- paragraphs (c) and (d) of subsection (1);
- paragraphs (j) and (k) of subsection (5);
- paragraph (a) of subsection (6) in its application to sections 15 and 390;
- subsection (7).

Section 394, except for paragraphs (e) and (f) of subsection (2).

Sections 395 to 399 and 402 to 404.

Section 406, except for—

- subsection (1) in respect of the provisions of Schedule 17 not set out in this Schedule;
- subsection (6) in respect of the provisions of Schedule 18 not set out in this Schedule;
- subsection (7) in respect of the provisions of Schedule 19 not set out in this Schedule.

Sections 408 and 410.

Schedules 3, 4 and 8.

In Schedule 15, paragraphs 20(1) and (2)(a) and 52(1) and (2)(a).

In Schedule 17—

- paragraphs 1 to 5, 8(1), (3), (6), (8) and (10), 10, 14(1), (2), (3)(b) and (4)(a), 16, 19 to 31, 38, 40 to 47, 51 to 60, 63, 71, 72(1) to (3), (5) and (6), 75, 77 to 82, 84 to 90, 94 to 128, 129(1) and (3), 130, 131, 134 to 144, 152 to 158, 160, 162, 163, 165, 166(1), (2) and (3)(b), 168 to 170, 174(1), (2), (4), (6) and (7) and 175;
- paragraph 8(9), except in respect of the repeal of the words in section 1D(8) of the Wireless Telegraphy Act 1949(a) from “A notice under this section” to “affected by them”;
- paragraph 9, except in respect of the new subsection (2A) in subparagraph (3);
- paragraph 11, except in respect of the new subsection (4A) in subparagraph (4);
- paragraph 37, except in respect of the new subsection (11B) in subparagraph (5);
- paragraph 70, except for the purpose of the giving of directions to any person to whom directions could not be given on 24th July 2003;
- paragraph 73, except in respect of the new subsection (1B);
- paragraph 147, except for the words “or of grant of recognised spectrum access” in subsection (1) of the new section 2, paragraph (b) of that subsection and the word “or” preceding that paragraph;
- paragraph 150, except in respect of subsection (3) of the new section 6.

In Schedule 18, paragraphs 1 to 4, 7 to 19, 22 to 26, 30, 56 to 58, 63 and 64.

(a) 1949 c. 54; section 1D was inserted by S.I. 1997/2930.

In Schedule 19—

the entries for—

Telegraph Act 1899
Wireless Telegraphy Act 1949, sections 1D(1), (2) and (7), 1F, 3(1), 9, 10(2), 11(1), 14, 15(4)(c) and 19(9) and Schedule 2
Wireless Telegraphy Act 1949, section 1D(8) in respect of the words “and a reference to such notice shall also be published in the London, Edinburgh and Belfast Gazettes”
Army Act 1955
Air Force Act 1955
Naval Discipline Act 1957
Opencast Coal Act 1958
Continental Shelf Act 1964
Marine, &c., Broadcasting (Offences) Act 1967
British Telecommunications Act 1981
Acquisition of Land Act 1981
Telecommunications Act 1984, sections 2 to 53, 60 to 73, 92 to 98, 101(2)(a), 102, 104, 107 and 109 and Schedules 2 to 6
Telecommunications Act 1984, section 106(1), except in respect of the definition of “the Director”
Companies Consolidation (Consequential Provisions) Act 1985
Surrogacy Arrangements Act 1985
Interception of Communications Act 1985
Housing Act 1985
Airports Act 1986
Insolvency Act 1986
Consumer Protection Act 1987
Channel Tunnel Act 1987
Income and Corporation Taxes Act 1988
Legal Aid Act 1988
Copyright, Designs and Patents Act 1988, Schedule 7
Housing Act 1988
Electricity Act 1989
Companies Act 1989, Schedule 18
Planning (Consequential Provisions) Act 1990
Courts and Legal Services Act 1990
New Roads and Street Works Act 1991
Taxation of Chargeable Gains Act 1992
Charities Act 1992
Competition and Service (Utilities) Act 1992, except in respect of paragraph 3(b) of Schedule 1
Carriage of Goods by Sea Act 1992
Tribunals and Inquiries Act 1992
Judicial Pensions and Retirement Act 1993
Leasehold Reform, Housing and Urban Development Act 1993
Cardiff Bay Barrage Act 1993
Local Government (Wales) Act 1994
Vehicle Excise and Registration Act 1994
Criminal Justice and Public Order Act 1994
Deregulation and Contracting Out Act 1994, Schedule 4
Arbitration Act 1996
Channel Tunnel Rail Link Act 1996
Telecommunications (Fraud) Act 1997
Wireless Telegraphy Act 1998, section 1(3)
Wireless Telegraphy Act 1998, Schedule 1 in respect of paragraphs 2 and 3
Petroleum Act 1998
Competition Act 1998, Schedule 7, paragraph 2 and Schedules 10 and 13
Regional Development Agencies Act 1998
Access to Justice Act 1999
Electronic Communications Act 2000

Regulation of Investigatory Powers Act 2000
Countryside and Rights of Way Act 2000
Transport Act 2000, Schedule 8
Criminal Justice and Police Act 2001
Enterprise Act 2002, sections 136 and 168, Schedule 9 and Schedule 25, paragraph 13
Income Tax (Earnings and Pensions) Act 2003;
notes 1, 2, 4 and 5;
the entries for all of the instruments specified except the Race Relations (Northern Ireland) Order 1997.

SCHEDULE 2

Article 2(2)

Provisions coming into force on 18th September 2003

Sections 5 (so far as not already in force), 28 to 30, 152(1), (3) and (9), 167, 179, 181, 184 and 348(2), (3) and (5) to (7).

Section 350(3) in respect of the provisions of Schedule 14 set out in this Schedule.

Section 360(3) in respect of the provisions of Schedule 15 set out in this Schedule.

Section 406(1), (6) and (7) in respect of the provisions of Schedules 17, 18 and 19 set out in this Schedule.

Section 407.

Schedule 2.

In Schedule 14, Part 4 and paragraph 17 so far as that paragraph relates to paragraph 16 of that Schedule.

In Schedule 15, paragraph 53(1) and (4).

In Schedule 17—

paragraphs 7, 18, 32, 33, 70 (so far as not already in force) and 149;

paragraph 150 in respect of subsection (3) of the new section 6, except for the words “or 3A”.

In Schedule 18, paragraphs 21 and 54(1) to (4).

In Schedule 19, the entry for section 3 of the Wireless Telegraphy Act 1998.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 25th July 2003 the provisions of the Communications Act 2003 listed in Schedule 1 and on 18th September 2003 the provisions listed in Schedule 2.

By virtue of article 3(1) the Director General of Telecommunications and the Secretary of State will for a transitional period exercise the functions of the Office of Communications in respect of the “transitionally commenced provisions” defined in article 1(2); and article 3(2) contains transitional provisions relating to the electronic communications code.

Articles 4 to 6 contain transitional provisions relating to sections 264, 348 (and Schedule 14) and 362.

Including the provisions which by virtue of section 411(2) and (3) of the Act came into force on Royal assent, the following provisions will be in force by 18th September:

sections 1 (in part), 4, 5, 24, 25, 26 (in part), 28 to 30, 31 (in part), 32 to 55, 56 to 63 (in part), 64 to 119, 125 to 151, 152 (in part), 153, 154, 164 to 167, 169, 172 to 174, 178, 179, 181, 183 to 197, 264, 348 (in part), 350 (in part), 360 (in part), 361, 362, 369 (in part), 370, 371, 393 (in part), 394 (in part), 395 to 399, 402 to 405, 406 (in part), 407, 408, 410 and 411; Schedules 2 to 4, 8, 14 (in part), 15 (in part), 17 (in part), 18 (in part) and 19 (in part).

STATUTORY INSTRUMENTS

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