

# WIRELESS TELEGRAPY ACT 2006

## PART 5 PROHIBITION OF BROADCASTING FROM SEA OR AIR

### *Prohibitions*

#### **77 Broadcasting from ships and aircraft**

(1) It is unlawful—

(a) in the case of any ship or aircraft, to make a broadcast from it while it is in or over the United Kingdom or external waters; or

(b) in the case of a British-registered ship or British-registered aircraft, to make a broadcast from it while it is not in or over the United Kingdom or external waters.

(2) If a broadcast is made from a ship in contravention of subsection (1), an offence is committed by—

(a) the owner of the ship;

(b) the master of the ship; and

(c) a person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made.

(3) If a broadcast is made from an aircraft in contravention of subsection (1), an offence is committed by—

(a) the operator of the aircraft;

(b) the commander of the aircraft; and

(c) a person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made.

(4) A person commits an offence if he procures a broadcast to be made in contravention of subsection (1).

(5) In this section—

- “master”, in relation to a ship, includes any other person (except a pilot) who has command or charge of the ship;
- “operator”, in relation to an aircraft, means the person who at the relevant time has the management of the aircraft.

#### **78 Broadcasting from marine structures etc**

(1) This section applies to—

(a) tidal waters in the United Kingdom;

(b) external waters;

(c) waters in a designated area.

(2) It is unlawful to make a broadcast from—

(a) a structure, other than a ship, that is affixed to, or supported by, the bed of waters to which this section applies, or

(b) any other object in those waters.

(3) Subsection (2) does not apply by virtue of paragraph (b) to a broadcast made from a ship or aircraft.

(4) A person commits an offence if he operates, or participates in the operation of, apparatus by means of which a broadcast is made in contravention of subsection (2).

(5) A person commits an offence if he procures a broadcast to be made in contravention of subsection (2).

## **79 Broadcasting from prescribed areas of high seas**

(1) It is unlawful—

(a) to make a broadcast that is capable of being received in the United Kingdom, or

(b) to make a broadcast that causes interference with any wireless telegraphy in the United Kingdom, from a ship (other than a British-registered ship) while it is within a prescribed area of the high seas.

(2) If a broadcast is made in contravention of subsection (1), an offence is committed by—

(a) the owner of the ship from which the broadcast is made;

(b) the master of the ship; and

(c) a person who operates, or participates in the operation of, apparatus by means of which the broadcast is made.

(3) A person commits an offence if he procures a broadcast to be made in contravention of subsection (1).

(4) The making of a broadcast does not contravene subsection (1) if it is shown to have been authorised under the law of a country or territory outside the United Kingdom.

(5) "Prescribed" means prescribed for the purposes of this section by an order made by the Secretary of State.

## **80 Acts connected with broadcasting**

(1) A British person commits an offence if he operates, or participates in the operation of, apparatus by means of which a broadcast is made—

(a) from a ship (other than a British-registered ship) while it is on the high seas;

(b) from an aircraft (other than a British-registered aircraft) while it is on or over the high seas;

(c) from a structure (other than a ship) that is affixed to, or supported by, the bed of the high seas; or

(d) from an object on the high seas (other than a structure falling within paragraph (c), a ship or an aircraft).

(2) Subsection (1) does not apply—

(a) by virtue of paragraph (a), to a broadcast made in contravention of section 79(1);

(b) by virtue of paragraph (c) or (d), to a broadcast made from a structure or other object in waters in a designated area.

(3) A person commits an offence if he procures a broadcast to be made as mentioned in subsection (1).

## **81 Management of station**

(1) A person commits an offence if, from anywhere in the United Kingdom or external waters, he participates in the management, financing, operation or day-to-day running of a broadcasting station by which broadcasts are made—

(a) in contravention of section 77(1), 78(2) or 79(1); or

(b) as mentioned in section 80(1)(a).

(2) In this section “broadcasting station” means a business or other operation (whether or not in the nature of a commercial venture) that is engaged in the making of broadcasts.

## **82 Facilitating broadcasting from ships or aircraft**

(1) A person commits an offence if he provides a ship or aircraft to another, or agrees to do so, knowing, or having reasonable cause to believe, that broadcasts are to be made from it—

(a) in contravention of section 77(1); or

(b) while it is on or over the high seas.

(2) A person commits an offence if—

(a) he carries wireless telegraphy apparatus in a ship or aircraft, or agrees to do so, or

(b) he supplies wireless telegraphy apparatus to a ship or aircraft, or installs such apparatus in a ship or aircraft, knowing, or having reasonable cause to believe, that by means of the apparatus broadcasts are to be made from the ship or aircraft as mentioned in subsection (1).

(3) A person commits an offence if—

(a) he supplies goods or materials—

(i) for the operation or maintenance of a ship or aircraft,

(ii) for the operation or maintenance of wireless telegraphy apparatus installed in a ship or aircraft, or

(iii) for the sustenance or comfort of the persons on board a ship or aircraft,

(b) he carries by water or air goods or persons to or from a ship or aircraft, or

(c) he engages a person as an officer or one of the crew of a ship or aircraft, knowing, or having reasonable cause to believe, that broadcasts are made, or are to be made, from the ship or aircraft as mentioned in subsection (1).

(4) In proceedings for an offence under this section consisting in carrying goods or persons to or from a ship or aircraft, it is a defence for the defendant to prove—

(a) that the ship or aircraft was, or was believed to be, wrecked, stranded or in distress, and that the goods or persons were carried for the purpose of—

(i) preserving the ship or aircraft, or its cargo or equipment, or

(ii) saving the lives of persons on board the ship or aircraft; or

(b) that a person on board the ship or aircraft was, or was believed to be, hurt, injured or ill, and that the goods or persons were carried for the purpose of securing that he received the necessary surgical or medical advice and attendance.

(5) The reference in subsection (4)(a) to persons carried for the purpose of saving lives is not to be read as excluding the persons whose lives were to be saved.

(6) The reference in subsection (4)(b) to persons carried for the purpose of securing that advice and attendance were received is not to be read as excluding the person who was (or was believed to be) hurt, injured or ill.

(7) In proceedings for an offence under this section consisting in carrying a person ("A") to or from a ship or aircraft, it is a defence for the defendant to prove that A was visiting the ship or aircraft for the purpose of exercising or performing a power or duty conferred or imposed on A by law.

(8) This section is subject to section 86.

### **83 Facilitating broadcasting from structures etc**

(1) A person commits an offence if he installs wireless telegraphy apparatus on or in a structure or other object, or supplies such apparatus for installation on or in a structure or other object, knowing, or having reasonable cause to believe, that by means of the apparatus broadcasts are to be made from it—

(a) in contravention of section 78(2); or

(b) while it is on the high seas.

(2) A person commits an offence if, in the case of a structure or other object—

(a) he supplies goods or materials—

(i) for its maintenance,

(ii) for the operation or maintenance of wireless telegraphy apparatus installed in or on it, or

(iii) for the sustenance or comfort of the persons in or on it,

(b) he carries goods or persons to or from it by water or air, or

(c) he engages a person to render services in or on it,

knowing, or having reasonable cause to believe, that broadcasts are made, or are to be made, from the structure or other object as mentioned in subsection (1).

(3) In proceedings for an offence under this section consisting in carrying goods or persons to or from a structure or other object, it is a defence for the defendant to prove—

(a) that it was, or was believed to be, unsafe, and that the goods or persons were carried for the purpose of saving the lives of persons in or on it; or

(b) that a person in or on it was, or was believed to be, hurt, injured or ill, and that the goods or persons were carried for the purpose of securing that he received the necessary surgical or medical advice and attendance.

(4) The reference in subsection (3)(a) to persons carried for the purpose of saving lives is not to be read as excluding the persons whose lives were to be saved.

(5) The reference in subsection (3)(b) to persons carried for the purpose of securing that advice and attendance were received is not to be read as excluding the person who was (or was believed to be) hurt, injured or ill.

(6) In proceedings for an offence under this section consisting in carrying a person (“A”) to or from a structure or other object, it is a defence for the defendant to prove that A was visiting it for the purpose of exercising or performing a power or duty conferred or imposed on A by law.

(7) In this section references to a structure or other object do not include references to a ship or aircraft.

(8) This section is subject to section 86.

## **84 Maintaining or repairing apparatus**

(1) A person commits an offence if he repairs or maintains wireless telegraphy apparatus knowing, or having reasonable cause to believe, that by means of it broadcasts are made, or are to be made—

(a) in contravention of section 77(1), 78(2) or 79(1); or

(b) as mentioned in section 80(1).

(2) This section is subject to section 86.

## **85 Acts relating to broadcast material**

(1) A person commits an offence if—

(a) he supplies a film or sound recording knowing, or having reasonable cause to believe, that an unlawful broadcast is to be made of it;

(b) he makes a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unlawful broadcast is to be made of it;

(c) he makes an artistic work knowing, or having reasonable cause to believe, that it is to be included in an unlawful television broadcast;

(d) he participates in an unlawful broadcast;

(e) he advertises by means of an unlawful broadcast or invites another to advertise by means of an unlawful broadcast that is to be made;

(f) he publishes the times or other details of unlawful broadcasts that are to be made, or (otherwise than by publishing such details) publishes an advertisement of matter calculated to promote (whether directly or indirectly) the interests of a business whose activities consist in or include the operation of a station from which unlawful broadcasts are or are to be made.

(2) An unlawful broadcast is a broadcast made—

(a) in contravention of section 77(1), 78(2) or 79(1); or

(b) as mentioned in section 80(1).

(3) A person participates in a broadcast only if he is actually present—

(a) as an announcer;

(b) as a performer or one of the performers concerned in an entertainment given; or

(c) as the deliverer of a speech.

(4) The cases in which a person is to be taken for the purposes of this section as advertising by means of a broadcast include any case in which he causes or allows it to be stated, suggested or implied that entertainment included in the broadcast—

(a) has been supplied by him; or

(b) is provided wholly or partly at his expense.

(5) For the purposes of this section advertising by means of a broadcast takes place not only where the broadcast is made but also wherever it is received.

(6) This section is subject to section 86.

## **86 Facilitation offences: territorial scope**

(1) A person who does an act mentioned in section 82, 83, 84 or 85 does not commit an offence under that section unless condition A, B, C, D or E is satisfied.

(2) Condition A is satisfied if he does the act in the United Kingdom or external waters.

(3) Condition B is satisfied if he does the act in a British-registered ship or British-registered aircraft while it is not in or over the United Kingdom or external waters.

(4) Condition C is satisfied if, in a case where—

(a) neither condition A nor condition B is satisfied, but

(b) the broadcasts in question are made, or are to be made, from a structure or other object (which is not a ship or aircraft) in waters in a designated area,

he does the act on that structure or other object within those waters.

(5) Condition D is satisfied if, in a case where—

(a) neither condition A nor condition B is satisfied, but

(b) the broadcasts in question are made, or are to be made, from a ship in contravention of section 79(1),

he does the act in that ship within an area of the high seas that is prescribed for the purposes of section 79.

(6) Condition E is satisfied if—

(a) he is a British person; and

(b) he does the act on or over the high seas.

## **87 Procuring person to commit offence abroad**

A person commits an offence if he procures, in the United Kingdom, another person to do, outside the United Kingdom, anything that would have constituted an offence under sections 82 to 85 had the other person done it in the United Kingdom.

### *Enforcement*

## **88 Enforcement officers**

(1) For the purposes of sections 89 to 92 enforcement officers are—

(a) persons authorised by the Secretary of State or OFCOM to exercise the powers conferred by sections 89 and 90;

(b) police officers;

(c) commissioned officers of Her Majesty's armed forces;

(d) officers of Revenue and Customs; and

(e) other persons who are British sea-fishery officers by virtue of section 7(1) of the Sea Fisheries Act 1968 (c. 77).

(2) A reference in sections 89 to 92, in relation to an enforcement officer, to an assistant is a reference to a person assigned to assist the enforcement officer in his duties.

(3) In this section “armed forces” means the Royal Navy, the Royal Marines, the regular army and the regular air force, and a reserve or auxiliary force of any of those services that has been called out on permanent service or embodied.

## **89 Enforcement powers**

(1) If conditions A and B are satisfied in the case of a ship, structure or other object, an enforcement officer may, with or without assistants, exercise the powers mentioned in subsection (4) in relation to it.

(2) Condition A is satisfied if the enforcement officer has reasonable grounds for suspecting that—

(a) an offence under this Part has been or is being committed by the making of a broadcast—

(i) from a ship, structure or other object in external waters or in tidal waters in the United Kingdom, or

(ii) from a British-registered ship while it is on the high seas;

(b) an offence under section 78 has been or is being committed by the making of a broadcast from a structure or other object in waters in a designated area; or

(c) an offence under section 79 has been or is being committed by the making of a broadcast from a ship.

(3) Condition B is satisfied if a written authorisation has been issued by the Secretary of State or OFCOM for the exercise of the powers mentioned in subsection (4) in relation to that ship, structure or other object.

(4) The powers are—

(a) to board and search the ship, structure or other object;

(b) to seize and detain it, and any apparatus or other thing found in the course of the search that appears to him—

(i) to have been used, or to have been intended to be used, in connection with the commission of the suspected offence, or

(ii) to be evidence of the commission of the suspected offence;

(c) to arrest and search any person who he has reasonable grounds to suspect has committed or is committing an offence under this Part if—

(i) the person is on board the ship, structure or other object, or

(ii) the officer has reasonable grounds for suspecting that the person was on board at, or shortly before, the time when the officer boarded the object;

(d) to arrest any person—

(i) who assaults him, or an assistant of his, while exercising any of the powers mentioned in this subsection, or

(ii) who intentionally obstructs him, or an assistant of his, in the exercise of any of those powers;

(e) to require any person on board the ship, structure or other object to produce any documents or other items that are in his custody or possession and are or may be evidence of the commission of an offence under this Part;

(f) to require any such person to do anything for the purpose of—

(i) enabling any apparatus or other thing to be rendered safe and, in the case of a ship, enabling the ship to be taken to a port, or

(ii) facilitating in any other way the exercise of any of the powers mentioned in this subsection;

(g) to use reasonable force, if necessary, in exercising any of those powers.

(5) In subsection (4)(a) to (c) and (e) a reference to the ship, structure or other object includes a reference to a ship's boat, or other vessel, used from it.

## **90 Enforcement powers: facilitation offences**

(1) Subsection (2) applies if—

(a) a written authorisation has been issued by the Secretary of State or OFCOM under section 89(3) for the exercise of the powers mentioned in section 89(4) in relation to a ship, structure or other object, and

(b) an enforcement officer has reasonable grounds for suspecting that an offence under section 82, 83, 84 or 85 has been or is being committed in connection with the making of a broadcast from that ship, structure or other object.

(2) The enforcement officer may, with or without assistants, exercise the powers mentioned in section 89(4) in relation to any ship, structure or other object which he has reasonable grounds to suspect has been or is being used in connection with the commission of the offence referred to in subsection (1)(b).

(3) Subsection (4) applies if—

(a) an enforcement officer has reasonable grounds for suspecting that an offence under section 82, 83, 84 or 85 has been or is being committed in connection with the making of a broadcast from a ship, structure or other object, but

(b) no written authorisation has been issued under section 89(3) for the exercise of the powers mentioned in section 89(4) in relation to that ship, structure or other object.

(4) The enforcement officer may, with or without assistants, exercise the powers mentioned in section 89(4) in relation to any ship, structure or other object which he has reasonable grounds to suspect has been or is being used in connection with the commission of the offence referred to in subsection (3)(a).

(5) Subsection (4) only applies if a written authorisation under this subsection has been issued by the Secretary of State or OFCOM for the exercise of those powers in relation to that ship, structure or other object.

## **91 Exercise of powers**

(1) Except as provided in subsections (2) and (3), the powers mentioned in section 89(4) may be exercised only in tidal waters in the United Kingdom or in external waters.

(2) The powers may in addition—

(a) in the case of a suspected offence under this Part committed in a British-registered ship while it is on the high seas, be exercised in relation to the ship on the high seas;

(b) in the case of a suspected offence under section 78 committed on a structure or other object within waters in a designated area, be exercised in relation to the structure or other object within those waters;

(c) in the case of a suspected offence under section 79 committed in a ship within an area of the high seas prescribed for the purposes of that section, be exercised in relation to the ship within that area of the high seas.

(3) Subsection (2) does not apply so far as the powers are exercisable by virtue of a written authorisation issued by OFCOM.

## **92 Further provisions**

(1) A person commits an offence if—

(a) he assaults an enforcement officer, or an assistant of his, while he is exercising any of the powers conferred by section 89 or 90;

(b) he intentionally obstructs an enforcement officer, or an assistant of his, in the exercise of any of those powers; or

(c) he fails or refuses, without reasonable excuse, to comply with such a requirement as is mentioned in section 89(4)(e) or (f).

(2) Neither an enforcement officer nor an assistant of his is liable in civil or criminal proceedings for anything done in purported exercise of any of the powers conferred by section 89 or 90 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(3) Nothing in sections 89 to 91 or this section affects the exercise of any powers exercisable apart from those sections.

(4) A reference in sections 89 to 91 or this section, in relation to an enforcement officer's assistant, to the exercise of any of the powers mentioned in section 89(4) is a reference to the exercise by the assistant of any of those powers on behalf of the officer.

## *Penalties and proceedings*

### **93 Penalties and proceedings**

(1) A person who commits an offence under this Part is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 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.

(2) In the application of subsection (1) to Scotland or Northern Ireland the reference to 12 months is to be read as a reference to six months.

(3) Proceedings in England and Wales for an offence under this Part may be brought only—

(a) by OFCOM; or

(b) by or with the consent of the Secretary of State or the Director of Public Prosecutions.

(4) Proceedings in Northern Ireland for an offence under this Part may be brought only—

(a) by OFCOM; or

(b) by or with the consent of the Secretary of State or the Advocate General for Northern Ireland.

(5) Summary proceedings in Scotland for an offence under this Part may be commenced at any time within the period of two years beginning with the day after the commission of the offence.

## *Saving*

### **94 Saving for certain broadcasts**

Nothing in this Part makes it unlawful to do anything under and in accordance with a wireless telegraphy licence, or to procure anything to be so done.

## *Interpretation*

### **95 Part 5: interpretation**

(1) In this Part—

- “British-registered” means registered in the United Kingdom, the Isle of Man or any of the Channel Islands;
- “broadcast” means a broadcast by wireless telegraphy of sounds or visual images intended for general reception (whether or not the sounds or images are actually received by anyone), but does not include a broadcast consisting in a message or signal sent in connection with navigation or for the purpose of securing safety;
- “designated area” has the meaning given by section 1(7) of the Continental Shelf Act 1964 (c. 29);

- “external waters” means the whole of the sea adjacent to the United Kingdom that is within the seaward limits of UK territorial sea;
- “the high seas” means seas that are not within the seaward limits of UK territorial sea or of the territorial waters adjacent to a country or territory outside the United Kingdom.

(2) For the purposes of this Part references to a “British person” are references to—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
  - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject; or
  - (c) a British protected person within the meaning given by section 50(1) of that Act.
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## SCHEDULE 9 REPEALS AND REVOCATIONS

### PART 1

#### REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Wireless Telegraphy Act 1949 (c. 54)	The whole Act.
Marine, &c., Broadcasting (Offences) Act 1967 (c. 41)	The whole Act.