

COMMUNICATIONS ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Licensing of Tv Reception

761. The requirement to hold a licence for the use of a television receiver is currently contained in the Wireless Telegraphy Act 1949, as amended by the Broadcasting Act 1990. The 1990 Act made the BBC (rather than the Secretary of State) responsible for TV licence administration. Part 4 of the Act consolidates the existing provisions relating to the administration and enforcement of TV licences, with amendments, and separates them from provisions relating to other wireless telegraphy licences.

Section 363: Licence required for use of TV receiver

762. This section prohibits the installation or use of a television receiver without a TV licence issued by the BBC, and makes it an offence, punishable by a fine, for any person to:

- install or use a television receiver without a TV licence; or
- have a television receiver in his possession or under his control, intending to install or use it without a TV licence, or knowing (or having reasonable grounds for believing) that another person intends to install or use it without a TV licence.

763. *Subsection (5)* exempts from the requirement to hold a TV licence any person who, in the course of business as a dealer, delivers, installs on delivery, demonstrates, tests or repairs television receivers. *Subsection (6)* gives the Secretary of State the power to make regulations creating further categories of exemptions from the requirement to hold a TV licence for prescribed equipment, persons, circumstances or purposes.

764. *Paragraph 55* of Schedule 18 provides that any television licence granted under the Wireless Telegraphy Act 1949 before the coming into effect of this section shall have effect after its coming into force as a licence for the purposes of this section.

Section 364: TV licences

765. This section provides for the issuing by the BBC of TV licences. The BBC may include in TV licences such conditions and restrictions as they think fit. They must attach such conditions and restrictions as the Secretary of State directs, and may not attach any conditions expressly prohibited by a direction issued by the Secretary of State. They are also precluded from including any provision conferring a power of entry to any premises.

766. *Subsection (2)* gives a non-exhaustive list of the type of conditions that might be included in a TV licence, including provisions relating to the type of television receiver covered by the licence, the persons authorised to install or use a television receiver under the licence, and the purpose for which the receiver may be installed or used.

767. *Subsection (5)* gives the BBC the power to revoke or modify a TV licence either by notice to the licensee or by a general notice published in a manner as specified in

the licence. The BBC must modify the conditions or restrictions in a TV licence if directed by the Secretary of State to do so. Otherwise the licence continues for the period specified in the licence.

Section 365: TV licence fees

768. This section allows the Secretary of State – subject to obtaining the consent of the Treasury - to make regulations setting the fees payable by licensees to the BBC (i) on the issue or renewal of a TV licence; and (ii) in such other circumstances as the Secretary of State provides for in the regulations. Regulations may also allow for concessions, and provide for payment of the licence fee by instalments.

Section 366: Powers to enforce TV licensing

769. This section sets out procedures for the issue and use of search warrants for the purpose of investigating offences under section 363. *Subsections (1) and (2)* provide that a justice of the peace in England or Wales, a sheriff in Scotland, or a lay magistrate in Northern Ireland, may grant a search warrant to one or more persons authorised by the BBC or OFCOM where he is satisfied by information provided under oath that there are reasonable grounds for suspecting (i) that an offence under section 363 has been or is being committed; (ii) that evidence related to such an offence is likely to be on premises or in any vehicle specified in the warrant; and (iii) that one or more of the conditions set out in *subsection (3)* are satisfied. Those conditions are: that it is impracticable to communicate with any person who may grant entry to the relevant premises or vehicle; that there is no one with whom it is practicable to communicate who is entitled to grant access to the evidence; that entry will not be granted unless a warrant is produced; or that the purpose of the search may be frustrated or seriously prejudiced unless carried out immediately on arrival at the relevant premises or vehicle.

**vehicle* is defined in *subsection (10)* as including any vessel, aircraft or hovercraft.

770. A warrant granted under this section will be valid for one month after the day of grant. It may grant powers to enter and search specified premises or vehicles and to examine and test any television receiver found there. A warrant issued to a person authorised by OFCOM may only be used to investigate breaches of TV licence conditions relating to radio interference. Persons acting under a warrant may use reasonable force in the exercise of these powers.
771. *Subsection (7)* imposes a duty on any person who is on the premises specified in the warrant, or who is in, in charge of, or present at the vehicle specified in the warrant, to provide any assistance necessary to enable any person acting under the warrant to examine or test any television receiver found there.
772. *Subsection (8)* makes it an offence intentionally to obstruct the exercise of any powers granted under a warrant under this section or to fail (without reasonable excuse) to provide any assistance required under *subsection (7)*. A person guilty of such an offence is liable to a fine.

Section 367: Interpretation of provisions about dealer notification

773. This section replaces the definitions of “television dealer”, “television programme” and “television set” in section 6 of the Wireless Telegraphy Act 1967, enabling the Secretary of State, by regulations, to define a television dealer and a television set for the purposes of the dealer notification requirements of the Wireless Telegraphy Act 1967. The apparatus specified in regulations defining television sets may include software used in association with it.

*These notes refer to the Communications Act 2003
(c.21) which received Royal Assent on 17 July 2003*

Section 368: Meaning of “television receiver” and “use”

774. This section defines a television receiver as apparatus of a description defined by the Secretary of State, by order, as a television receiver. The apparatus specified in an order may include software used in association with it.