



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 4

#### APPROVAL OF APPARATUS ETC

##### *Approval of apparatus*

#### **69 Approval of apparatus**

- (1) This section applies where an instrument falling within subsection (2) contains provision framed by reference to relevant apparatus for the time being approved under this section for the purposes of that instrument.
- (2) The instruments are—
  - (a) wireless telegraphy licences granted under section 8;
  - (b) regulations made under section 8(3);
  - (c) regulations made under section 54;
  - (d) restriction orders made under section 62;
  - (e) authorities given under section 62(5).
- (3) The relevant authority may approve relevant apparatus for the purposes of such an instrument.
- (4) The relevant authority may require a person applying for an approval under this section to comply with such requirements as the relevant authority may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to a particular matter.
- (5) An approval under this section may apply—
  - (a) to particular apparatus or to apparatus of a description specified in the approval;
  - (b) for the purposes of a particular instrument or for the purposes of instruments that are of a description specified in the approval.

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- (6) An approval under this section may specify conditions that must be complied with if the approval is to apply to apparatus specified in the approval (or to apparatus of a description so specified) for purposes specified in the approval.
- (7) A condition so specified may impose on the person to whom the approval is given a requirement to satisfy a person from time to time with respect to a particular matter.
- (8) The relevant authority may at any time vary or withdraw an approval given by the relevant authority under this section.

## **70 Approvals: supplementary**

- (1) A person appointed by the relevant authority may exercise a function conferred on the relevant authority by section 69 to such extent and subject to such conditions as may be specified in the appointment.
- (2) The relevant authority may by order provide for the charging of fees in respect of the exercise of a function in pursuance of section 69 by or on behalf of the relevant authority.
- (3) Section 128 of the Finance Act 1990 (c. 29) (power to provide for repayment of fees etc) applies in relation to the power under subsection (2) to make an order as it applies in relation to any power to make such an order conferred before that Act was passed.
- (4) An appointment under subsection (1) may authorise the person appointed to retain any fees received by him in pursuance of an order under subsection (2).
- (5) Nothing in subsection (2) precludes a person (not being the relevant authority or a person acting on behalf of the relevant authority) by whom a matter falls to be determined for the purposes of a requirement imposed in pursuance of section 69(4) or (7) from charging a fee in respect of the carrying out of a test or other assessment made by him.
- (6) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

## **71 The relevant authority**

- (1) In sections 69 and 70 “the relevant authority” means (subject to subsection (2))—
  - (a) in such cases as may be specified in an order made by the Secretary of State, the Secretary of State; and
  - (b) in any other case, OFCOM.
- (2) Where an application for the purposes of section 69 is made to the Secretary of State or OFCOM and it appears to the person to whom it is made that it should have been made to the other—
  - (a) that person is to refer the application to the other; and
  - (b) the application is to be proceeded with as if made to the person to whom it is referred.

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### *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.

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## 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.
- (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.

### *Interpretation*

## 76 Part 4: interpretation

In this Part—

“advertisement” includes a catalogue, a circular and a price list;

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“relevant apparatus” means wireless telegraphy apparatus or apparatus designed or adapted for use in connection with wireless telegraphy apparatus.

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