



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 2

#### REGULATION OF RADIO SPECTRUM

### CHAPTER 4

#### ENFORCEMENT

##### *Procedures for contraventions*

#### **41 Procedure for prosecutions**

- (1) This section applies to proceedings against a person (“the defendant”) for an offence under section 35 consisting in the contravention of—
  - (a) the terms, provisions or limitations of a wireless telegraphy licence; or
  - (b) the terms, provisions or limitations of an exemption under section 8(3).
- (2) Proceedings to which this section applies are not to be brought unless, before they are brought, OFCOM have—
  - (a) given the defendant a notification under section 39 in respect of the contravention to which the proceedings relate; and
  - (b) considered any representations about the matters notified which were made by the defendant within the period allowed under that section.
- (3) Proceedings to which this section applies are not to be brought against a person in respect of a contravention if—
  - (a) it is a contravention to which a notification given to that person under section 39 relates; and
  - (b) that person has, during the period [<sup>F1</sup>specified under section 39(2)(c) for making representations] , complied with the notified term, provision or limitation.

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*Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Section 41. (See end of Document for details)*

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- (4) Subsection (2) does not apply where OFCOM have certified that it would be inappropriate to follow the procedure in section 39 because of an immediate risk of—
- (a) a serious threat to the safety of the public, to public health or to national security; or
  - (b) serious economic or operational problems for persons (other than the defendant) who—
    - (i) use wireless telegraphy stations or wireless telegraphy apparatus; <sup>F2</sup>...
    - (ii) are communications providers or make associated facilities available. <sup>F3</sup>;or
    - (iii) are other users of the radio spectrum.]
- (5) Where—
- (a) proceedings to which this section applies are as a result of subsection (4) brought without a notification having been given to the defendant, and
  - (b) the defendant is convicted in those proceedings of the offence under section 35,
- the court, in determining how to deal with that person, must have regard, in particular, to the matters specified in subsection (6).
- (6) The matters are—
- (a) whether the defendant has ceased to be in contravention of the terms, provisions or limitations in question and (if so) when; and
  - (b) any steps taken by the defendant (whether before or after the commencement of the proceedings) for securing compliance with the obligations imposed on him by virtue of those terms, provisions or limitations.
- (7) Where—
- (a) OFCOM give a notification under section 39 in respect of a contravention, and
  - (b) that notification is given before the end of six months after the day of the contravention,
- the time for the bringing of proceedings for a summary offence in respect of that contravention shall be extended until the end of six months from the end of the period [<sup>F4</sup>specified under section 39(2)(c).]
- [<sup>F5</sup>(8) For further provision about prosecutions see section 107.]

#### Textual Amendments

- F1** Words in s. 41(3)(b) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 13(3)(a)**, 118(2) (with s. 13(4))
- F2** Word in s. 41(4)(b) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 15(a)** (with Sch. 3 para. 2)
- F3** S. 41(4)(b)(iii) and word inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 15(b)** (with Sch. 3 para. 2)
- F4** Words in s. 41(7) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 13(3)(b)**, 118(2) (with s. 13(4))
- F5** S. 41(8) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 13(3)(c)**, 118(2) (with s. 13(4))

**Changes to legislation:**

There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Section 41.