



Digital Economy Act 2017

2017 CHAPTER 30

PART 2

DIGITAL INFRASTRUCTURE

Other regulation of spectrum

9 Penalties for contravention of wireless telegraphy licences

- (1) The Wireless Telegraphy Act 2006 is amended as follows.
- (2) In section 42 (special procedure for contraventions by multiplex licence holders), in subsection (1)—
 - (a) in paragraph (a), for “general multiplex” substitute “ wireless telegraphy ”, and
 - (b) omit paragraph (b).
- (3) At the end of that section insert—
 - “(7) A contravention is a “relevant multiplex contravention” for the purposes of section 43 if—
 - (a) it is a contravention of terms, provisions or limitations of a general multiplex licence, and
 - (b) the contravention relates only to terms, provisions or limitations that fall within section 9(4)(b) or (c).”
- (4) In the heading of that section, for “multiplex licence holders” substitute “ holders of wireless telegraphy licences ”.
- (5) In section 43 (amount of penalty under section 42), in subsection (1), after “section 42” insert “ for a relevant multiplex contravention (see subsection (7) of that section) ”.
- (6) In that section, after subsection (2) insert—

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“(2A) The amount of a penalty imposed under section 42 for a contravention that is not a relevant multiplex contravention is to be such amount not exceeding 10 per cent of the relevant amount of gross revenue as OFCOM think—

- (a) appropriate; and
- (b) proportionate to the contravention in respect of which it is imposed.”

- (7) In that section, in subsection (3), for “subsection (2)” substitute “ this section ”.
- (8) Omit section 43A.
- (9) In section 44 (relevant amount of gross revenue), in subsections (1) and (10), omit “or 43A”.
- (10) In section 400 of the Communications Act 2003 (destination of licence fees and penalties), in subsection (1)(d), omit “or 43A”.
- (11) In Schedule 8 to that Act (decisions not subject to appeal), at the end of paragraph 44 insert “ for a relevant multiplex contravention ”.
- (12) Omit section 39 of the Digital Economy Act 2010.
- (13) The amendments and repeals made by this section do not apply in relation to—
 - (a) any contravention which takes place before the day on which this section comes into force, or
 - (b) any continuing contravention which began before that day.

10 Fixed penalties under Wireless Telegraphy Act 2006

- (1) In paragraph 4(2)(a) of Schedule 4 to the Wireless Telegraphy Act 2006 (suspended enforcement period for purposes of fixed penalty notice) for “one month” substitute “ 28 days ”.
- (2) The amendment made by this section does not apply in relation to a fixed penalty notice issued in respect of an offence committed before this section comes into force.

11 Search warrants under Wireless Telegraphy Act 2006

- (1) In section 97(3) of the Wireless Telegraphy Act 2006 (period for entering premises under warrant) for “of three months beginning with the day after the date of the warrant” substitute “ beginning with the grant of the warrant and ending three months after the end of the day on which the warrant is granted ”.
- (2) The amendment made by this section does not apply in relation to a warrant granted in respect of an offence committed before this section comes into force.

12 Disposal of seized property under Wireless Telegraphy Act 2006

- (1) In section 101 of the Wireless Telegraphy Act 2006 (detention and disposal of seized property), for subsection (5) substitute—
 - “(5) OFCOM may dispose of the property in such manner as they think fit if it remains in their possession after the end of the six months immediately following—
 - (a) the end of the period of detention authorised by subsection (2)(a), or

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- (b) if subsection (2)(b) applies, the end of the day on which the proceedings referred to in that provision were concluded.”
- (2) The amendment made by this section does not apply where the relevant offence is one committed before this section comes into force.
- (3) The relevant offence—
 - (a) where section 101(1)(a) of the Wireless Telegraphy Act 2006 applies, is the offence in relation to which the warrant is granted;
 - (b) where section 101(1)(b) of that Act applies, is the offence referred to in section 99(3) of that Act.

13 Time limits for prosecutions under Wireless Telegraphy Act 2006

- (1) The Wireless Telegraphy Act 2006 is amended as follows.
- (2) In section 107 (proceedings and enforcement), after subsection (3) insert—
 - “(3A) For the time limit for bringing proceedings which are for a summary offence under section 35 and to which section 41 applies see section 41(7).
 - (3B) The time limit for bringing any other proceedings for a summary offence under section 35, 58 or 66 is—
 - (a) one year from the end of the day on which the prosecutor becomes aware of evidence which he or she considers sufficient to justify a prosecution for the offence, or
 - (b) if earlier, three years from the end of the day on which the offence was committed.
 - (3C) Section 41(7) and subsection (3B) above have effect despite—
 - (a) section 127 of the Magistrates' Courts Act 1980 (time limit for bringing proceedings for summary offences in England and Wales),
 - (b) Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (equivalent provision for Northern Ireland), and
 - (c) section 136 of the Criminal Procedure (Scotland) Act 1995 (equivalent provision for Scotland).
 - (3D) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced for the purposes of that section) applies also for the purposes of section 41(7) and subsection (3B) above.”
- (3) In section 41 (procedure for prosecutions)—
 - (a) in subsection (3)(b) for “allowed under that section” substitute “ specified under section 39(2)(c) for making representations ”;
 - (b) in subsection (7) for the words from “allowed” to the end substitute “ specified under section 39(2)(c). ”;
 - (c) for subsection (8) substitute—
 - “(8) For further provision about prosecutions see section 107.”
- (4) The amendments made by this section do not apply in relation to an offence committed before this section comes into force.

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