

2004 No. 308

ELECTRONIC COMMUNICATIONS

BROADCASTING

**The Broadcasting and Communications (Jersey)
Order 2004**

Made - - - - - 11th February 2004

Coming into force - - - 27th February 2004

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 150(4) of the Broadcasting Act 1996^(a), and section 204(6) of the Broadcasting Act 1990^(b), as it is applied by section 150(3) of the Broadcasting Act 1996;

And in exercise of the powers conferred upon her by section 20(3) of the Wireless Telegraphy Act 1949^(c), section 108 of the Telecommunications Act 1984^(d) and section 204(6) of the Broadcasting Act 1990;

And in exercise of the powers conferred upon her by section 20(3) of the Wireless Telegraphy Act 1949 as it has effect by virtue of section 9(2) of the Wireless Telegraphy Act 1998^(e), section 9(3) of the Wireless Telegraphy Act 1998 and sections 402(3)(b) and (c) and 411(6) and (8) of the Communications Act 2003^(f);

Is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1.—(1) This Order may be cited as the Broadcasting and Communications (Jersey) Order 2004 and shall come into force on 27th February 2004.

(2) In respect of any provision of the 2003 Act that is extended to Jersey (whether with or without modifications) by this Order and that is to any extent brought into force in the United Kingdom on a date specified in the Office of Communications Act 2002 (Commencement No.3) and Communications Act 2003 (Commencement No. 2) Order 2003 (“the No. 2 Order”)(**g**)—

(a) any provision of the 2003 Act so extended, and any modification to that provision

^(a) 1996 c. 55, extended in part to Jersey by S.I. 1999/1315 and S.I. 2003/3202.

^(b) 1990 c. 42, extended in part to Jersey by S.I. 1991/193, 1710, 1999/1315 and 2003/3196.

^(c) 1949 c. 54.

^(d) 1984 c. 12, extended in part by S.I. 2003/3196. The Act has been amended in ways not relevant to this Order.

^(e) 1998 c. 6.

^(f) 2003 c. 21.

^(g) S.I. 2003/3142/c. 125.

made by this Order, shall be of no effect in or in relation to Jersey in relation to any time before the date specified in the No. 2 Order as the date on which that provision is to come into force in the United Kingdom;

- (b) where any provision of the 2003 Act so extended is brought into force in the United Kingdom for certain purposes or to a certain extent, as specified in the No. 2 Order, that provision, and any modification to that provision made by this Order, shall have effect in Jersey only for the purposes or to the extent so specified;
- (c) any provision of the 2003 Act so extended, and any such modification, shall have effect in Jersey subject to any transitional or transitory provision made in the No. 2 Order in relation to that provision.

Interpretation

2. In this Order—

- “the 2003 Act” means the Communications Act 2003;
- “the Wireless Telegraphy Order” means the Wireless Telegraphy (Jersey) Order 2003(a);
- “the Broadcasting Order” means the Broadcasting (Jersey) Order 2003(b);
- “the Communications Order” means the Communications (Jersey) Order 2003(c);
- “Jersey” means the Bailiwick of Jersey; and
- “the Channel Islands” means the Bailiwicks of Jersey and Guernsey.

Revocations

3. Article 2 of the Wireless Telegraphy (Channel Islands) (Amendment Order) 1997(d) (which amended section 1 of the Wireless Telegraphy Act 1949, as inserted by paragraph 2 of the Schedule to, and as extended to the Channel Islands by, the Wireless Telegraphy (Channel Islands) Order 1952(e)), as it applies to Jersey, is revoked.

Extension of the 2003 Act

4. Sections 363, 364, 365, 366 and 368 in Part 4 of the 2003 Act shall extend, with the modifications specified in Schedule 1 to this Order, to Jersey.

5. For the purpose of construing the provisions of the 2003 Act, as extended by this Order as part of the law of Jersey, any reference to an enactment which extends to Jersey shall, except where a contrary intention appears, be construed as a reference to that enactment as it has effect in Jersey.

Amendment of the Broadcasting and Communications Orders

6.—(1) The Wireless Telegraphy Order is hereby amended in accordance with Part 1 of Schedule 2 to this Order.

(2) The Broadcasting Order is hereby amended in accordance with Part 2 of Schedule 2 to this Order.

(3) The Communications Order is hereby amended in accordance with Part 3 of Schedule 2 to this Order.

A.K. Galloway
Clerk to the Privy Council

(a) S.I. 2003/3196.

(b) S.I. 2003/3203.

(c) S.I. 2003/3197.

(d) S.I. 1997/284.

(e) S.I. 1952/1900, to which there have been amendments not relevant to the subject matter of this Order.

MODIFICATIONS WITH WHICH PROVISIONS OF THE COMMUNICATIONS ACT 2003
EXTEND TO JERSEY

1. In section 363 (Licence required for use of TV receiver)—
 - (a) in subsection (4) omit the words “, on summary conviction,” and for “level 3” substitute “level 2”(a); and
 - (b) after subsection (7), insert the following—

“(8) Regulations made by the Secretary of State in the United Kingdom under section 363(6) shall not have effect in the Bailiwick of Jersey until they have been registered in the Royal Court, and where such Regulations have been so registered, they shall have effect on the day following the day of such registration or on the day of coming into force specified in the Regulations, whichever is the later.”.
2. In section 364 (TV licences), in subsection (9)(b) for the words “section 7 of the Interpretation Act 1978(b) (service by post)”, substitute “Article 12 of the Interpretation (Jersey) Law 1954”.
3. In section 365 (TV licence fees)—
 - (a) after subsection (4)(b), insert the following

“(c) where the regulations relate to the fees payable in respect of a TV licence authorising the installation and use of one or more television receivers in accommodation for residential care, for that accommodation to include accommodation provided or managed by a body approved by the Health and Social Services Committee of the States of Jersey for the purposes of the regulations.”;
 - (b) omit subsection (6); and
 - (c) after subsection (8), insert the following—

“(9) Regulations made by the Secretary of State in the United Kingdom under section 365(1) shall not have effect in the Bailiwick of Jersey until they have been registered in the Royal Court, and where such Regulations have been so registered, they shall have effect on the day following the day of such registration or on the day of coming into force specified in the Regulations, whichever is the later.”.
4. In section 366 (Powers to enforce TV licensing)—
 - (a) in subsection (1), for the words “a justice” to “Ireland”, substitute “the Bailiff” and for “information” substitute “evidence”;
 - (b) in subsection (2)—
 - (i) after “OFCOM” insert “, accompanied by a police officer,”; and
 - (ii) in subsection (2)(a) omit the words “(either alone or in the company of one or more constables)”;
 - (c) in subsection (6), after the word “section” insert “or a police officer”;
 - (d) in subsection (9), omit the words “on summary conviction,” and for “level 5” substitute “level 3”; and
 - (e) omit subsections (11) and (12).

(a) See paragraph 94(c) of Schedule 2 to the Communications Order for the definition of the standard scale.

(b) 1978 c. 30.

PART 1

AMENDMENTS OF THE WIRELESS TELEGRAPHY (JERSEY) ORDER 2003

In paragraph 5 of part I of the Schedule, for the words “Section 77” substitute “Sections 76 and 77”.

PART 2

AMENDMENTS OF THE BROADCASTING (JERSEY) ORDER 2003

In Schedule 1—

- (a) in paragraph 46, after the words “In section 109” insert “(4)”; and
- (b) omit paragraph 58.

PART 3

AMENDMENTS OF THE COMMUNICATIONS (JERSEY) ORDER 2003

In Schedule 2—

- (a) in paragraph 1—
 - (i) in the first part of the list in that paragraph (“The following sections of the 2003 Act, that is—”)—
 - (aa) immediately below the words “section 277(1)” insert “section 278(1)”; and
 - (bb) immediately below the inserted words “section 278(1)” insert “section 309(1)”; and
 - (ii) in the second part of the list in that paragraph (“shall have effect as if an order or regulations made under, respectively—”)—
 - (aa) after the words “section 249(1)” insert “and (2)”;
 - (bb) for the words “section 277(3)” substitute “section 277(2), (3) and (4)”;
 - (cc) immediately below the substituted words “section 277(2), (3) and (4)”, insert “section 278(6) and (7)”;
 - (dd) immediately below the inserted words “278(6) and (7)” insert “section 309 (2) and (3)”;
 - (ee) for the words “section 323(3)” substitute “section 323(1)”; and
 - (ff) for the words “section 348(7)” substitute “section 348(5)”;
 - (b) in paragraph 20, for the words “in the inserted section” to “by this section” substitute “in subsection (2)”;
 - (c) in paragraph 23(b), for the words “(2C) and (2D)” substitute “(1C) and (1D)”;
 - (d) omit paragraph 33;
 - (e) in paragraph 58, for the words “insert” to “Jersey”.” substitute “, wherever they occur, insert “or the Bailiwick of Jersey”.”;
 - (f) in paragraph 69(b), omit the reference to subsection (3)(e);
 - (g) in paragraph 76(a), in the third line of the inserted subsection (7), for the word “say” substitute “day”;
 - (h) in paragraph 82, for the word “for” substitute “after”;
 - (i) in paragraph 86(a), for the words “subsection (2)(1)” substitute “subsection (1)”;
 - (j) in paragraph 94(c), for the words ““TV licence”” substitute ““representation””;
 - (k) in paragraph 94(e), after the first quotation marks, but before the word “Welsh”, insert the word “the”;
 - (l) for paragraph 106, substitute the following—
 - “106. In Schedule 13 (Financial penalties under the Broadcasting Acts)—
 - (a) omit paragraphs 2(3), 3(2), 4(4), 5(2), 6(3), 7(3), 8(2), 9(3), 11(3), 13(3), 14(6), 15(6), 17(2), 19(4), 20(7) and 21(7); and
 - (b) omit section 36(3) of the 1990 Act inserted by paragraph 16 and section 69(3) of the 1990 Act inserted by paragraph 22.”;
 - (m) in paragraph 108—
 - (i) in sub-paragraph (f), after “75,” insert “in the substituted section 2 of the 1996 Act,”; and
 - (ii) omit sub-paragraph (g)(iii) and the word “and” at the end of sub-paragraph (g)(ii);
 - (n) for paragraph 109(g) substitute the following—
 - “(g) in paragraph 33(1), for the words “of that Act” substitute the words “of the Marine etc. Broadcasting (Offences) Act 1967”.”;

- (o) in paragraph 110—
 - (i) omit sub-paragraph (d); and
 - (ii) renumber the subsequent paragraph (e) as paragraph (d);
- (p) in paragraph 111(d), sixth line down, omit the words “Paragraph 4 of Part I of”; and
- (q) in paragraph 111(e), last line, omit the reference to paragraph 10.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Bailiwick of Jersey Part 4 of the Communications Act 2003, subject to modifications set out in Schedule 1 to the Order, which concerns the licensing of television reception. Other provisions of the Act were previously extended by the Communications (Jersey) Order 2003 (S.I.2003/3197). Part 4 includes provisions enabling the Secretary of State to make regulations in respect of television licence fees, and further provisions concerning powers to enforce television licensing.

In addition the Order makes drafting amendments to the Schedule of the Wireless Telegraphy (Jersey) Order 2003 (S.I. 2003/3196), Schedule 1 of the Broadcasting (Jersey) Order 2003 (S.I.2003/3203) and Schedule 2 of the above mentioned Communications Order and revokes article 2 of the Wireless Telegraphy (Channel Islands) (Amendment Order) 1997 (S.I. 1997/284) as it applies to Jersey.

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**The Broadcasting and Communications (Jersey)
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